

THE CALIFORNIA PUBLIC EMPLOYEES'
RETIREMENT SYSTEM



**GLOBAL PRINCIPLES
OF
ACCOUNTABLE
CORPORATE GOVERNANCE**

"Everywhere shareholders are re-examining their relationships with company bosses – what is known as their system of 'corporate governance.' Every country has its own, distinct brand of corporate governance, reflecting its legal, regulatory and tax regimes... The problem of how to make bosses accountable has been around ever since the public limited company was invented in the 19th century, for the first time separating the owners of firms from the managers who run them...."

"Corporate Governance: Watching the Boss," THE ECONOMIST 3 (Jan. 29, 1994).

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I. INTRODUCTION

The California Public Employees' Retirement System (CalPERS) is the largest U.S. public pension fund, with assets totaling \$250 billion spanning domestic and international markets as of ~~May~~ September 30, 2008⁷. ***Our mission is to advance the financial and health security for all who participate in the System. We will fulfill this mission by creating and maintaining an environment that produces responsiveness to all those we serve.*** This statement was adopted by the CalPERS Board of Administration to guide us in serving our more than 1.5 million members and retirees.

The CalPERS Board of Administration is guided by the Board's Investment Committee, management, and more than 210 Investment Office staff who carry out the daily activities of the investment program. Our goal is to efficiently and effectively manage investments to achieve the highest possible return at an acceptable level of risk. In doing so, CalPERS has generated strong long-term returns.

CalPERS' Corporate Governance¹ Program is a product of the evolution that only experience and maturity can bring. In its infancy in 1984-87, corporate governance at CalPERS was solely reactionary: reacting to the anti-takeover actions of corporate managers that struck a dissonant chord with one's sense – as owners of the corporate entity – of accountability and fair play. The late 1980s and early 1990s represented a period in which CalPERS learned a great deal about the “rules of the game” – how to influence corporate managers, what issues were likely to elicit fellow shareowner support, and where the traditional modes of shareowner/corporation communication were at odds with current reality.

Beginning in 1993, CalPERS turned its focus toward companies considered by virtually every measure to be “poor” financial performers. By centering its attention and resources in this way, CalPERS could demonstrate very specific and tangible results² to those who questioned the value of corporate governance.

What have we learned over the years? We have learned that (a) company managers want to perform well, in both an absolute sense and as compared to their peers; (b) company managers want to adopt long-term strategies and visions, but often do not feel that their shareowners are patient enough; and (c) all companies – whether governed under a structure of full accountability or not – will inevitably experience both ascents and descents along the path of profitability.

We have also learned, and firmly embrace the belief that good corporate governance – that is, accountable corporate governance – means the difference between wallowing for long periods in the depths of the performance cycle, and responding quickly to correct the corporate course. As one commentator noted:

“Darwin learned that in a competitive environment an organism's chance of survival and reproduction is not simply a matter of chance. If one organism has even a tiny edge over the others, the advantage becomes amplified over time. In

¹ “Corporate Governance,” at CalPERS, means the “relationship among various participants in determining the direction and performance of corporations. The primary participants are (1) shareowners, (2) management (led by the chief executive officer), and (3) the board of directors.” (Robert Monks and Nell Minow, CORPORATE GOVERNANCE 1 (1995).)

² See Steven L. Nesbitt, “Long-Term Rewards from Shareholder Activism: A Study of the ‘CalPERS Effect’,” J. OF APP. CORP. FIN. 75 (Winter 1994): Concluding that CalPERS' program generates approximately \$150 million, per year, in added returns. See Anson, White, and Ho “Good Corporate Governance Works: More Evidence from CalPERS,” Journal of Asset Management, Vol.5, 3 (February 2004), 149-156. Also see “The Shareholder Wealth Effects of CalPERS' Focus List,” Journal of Applied Corporate Finance, (Winter 2003), 8-17: The authors found that between 1992 and 2002, publication of the CalPERS “Focus List” and efforts to improve the corporate governance of companies on that list generated one-year average cumulative excess returns of 59.4%. Cumulative excess return is the cumulative “return earned over and above the risk-adjusted return required for each public corporation.”

'The Origin of the Species,' Darwin noted, 'A grain in the balance will determine which individual shall live and which shall die.' I suggest that an independent, attentive board is the grain in the balance that leads to a corporate advantage. A performing board is most likely to respond effectively to a world where the pace of change is accelerating. An inert board is more likely to produce leadership that circles the wagons.'

Ira M. Millstein, New York Times, April 6, 1997, Money & Business Section, p. 10.

II. PURPOSE

The Global Principles of Accountable Corporate Governance ("Principles") create the framework by which CalPERS executes its proxy voting responsibilities. In addition, the Principles provide a foundation for supporting the System's corporate engagement and governance initiatives to achieve long-term sustainable risk adjusted investment returns. Throughout this document, CalPERS has chosen to adopt the term "shareowner" rather than "shareholder." This is to reflect a view that equity ownership carries with it active responsibilities³ and is not merely passively "holding" shares. As a shareowner, CalPERS implements its proxy voting responsibility and corporate governance initiatives in a manner that is consistent with the Principles unless such action may result in long-term harm to the company that outweighs all reasonably likely long-term benefit; or, unless such a vote is contrary to the interests of the beneficiaries of CalPERS' system.

The execution of proxies and voting instructions is an important mechanism by which shareowners can influence a company's operations and corporate governance. It is therefore important for shareowners to exercise their right to participate in the voting and make their decisions based on a full understanding of the information and legal documentation presented to them. CalPERS will vote in favor of or "For", an individual or slate of director nominees up for election that the System believes will effectively oversee CalPERS' interests as a shareowner consistent with the Principles. However, CalPERS will withhold its vote from or vote "Against" an individual or slate of director nominees at companies that do not effectively oversee CalPERS' interests as a shareowner consistent with the Principles. CalPERS will also withhold its vote in limited circumstances where a company has consistently demonstrated long-term economic underperformance.

CalPERS' Global Principles are broken down into four areas – Core, Domestic, International, and Emerging Markets Principles. Adopting the Principles in its entirety may not be appropriate for every company in the global capital marketplace due to differing developmental stages, competitive environment, regulatory or legal constraints. However, CalPERS does believe the criteria contained in the Core Principles can be adopted by companies across all markets - from developed to emerging – in order to establish the foundation for achieving long-term sustainable investment returns through accountable corporate governance structures.

For companies in the United States or listed on U.S. stock exchanges, CalPERS advocates the expansion of the Core Principles into the Domestic Principles of Accountable Corporate Governance. For companies outside the United States or listed on non-U.S. stock exchanges, CalPERS advocates the expansion of the Core Principles into the International Principles of Accountable Corporate Governance. And in emerging capital markets, CalPERS advocates the expansion of the Core Principles into the Emerging Markets Principles of Accountable Corporate Governance in order to promote sustainable economic, environmental, and social development while striving to establish a governance framework that is consistent with International Principles.

³ "For corporate governance structures to work effectively, Shareowners must be active and prudent in the use of their rights. In this way, Shareowners must act like owners and continue to exercise the rights available to them." (2005 CFA Institute: Centre for Financial Market Integrity, The Corporate Governance of Listed Companies: A Manual for Investors)

III. PRINCIPLES of ACCOUNTABLE CORPORATE GOVERNANCE

A. Core Principles of Accountable Corporate Governance

There are many features that are important considerations in the continuing evolution of corporate governance best practices. However, the underlying tenet for CalPERS' Core Principles of Accountable Corporate Governance is that fully accountable corporate governance structures produce, over the long term, the best returns to shareowners. CalPERS believes the following Core Principles should be adopted by companies in all markets – from developed to emerging – in order to establish the foundation for achieving long-term sustainable investment returns through accountable corporate governance structures.

- 1. Optimizing Shareowner Return:** Corporate governance practices should focus the board's attention on optimizing the company's operating performance, profitability and returns to shareowners.
- 2. Accountability:** Directors should be accountable to shareowners and management accountable to directors. To ensure this accountability, directors must be accessible to shareowner inquiry concerning their key decisions affecting the company's strategic direction.
- 3. Transparency:** Operating, financial, and governance information about companies must be readily transparent to permit accurate market comparisons; this includes disclosure and transparency of objective globally accepted minimum accounting standards, such as the International Financial Reporting Standards ("IFRS").
- 4. One-share/One-vote:** All investors must be treated equitably and upon the principle of one-share/one-vote.
- 5. Proxy Materials:** Proxy materials should be written in a manner designed to provide shareowners with the information necessary to make informed voting decisions. Similarly, proxy materials should be distributed in a manner designed to encourage shareowner participation. All shareowner votes, whether cast in person or by proxy, should be formally counted with vote outcomes formally announced.
- 6. Code of Best Practices:** Each capital market in which shares are issued and traded should adopt its own Code of Best Practices to promote transparency of information, prevention of harmful labor practices, investor protection, and corporate social responsibility. Where such a code is adopted, companies should disclose to their shareowners whether they are in compliance.
- 7. Long-term Vision:** Corporate directors and management should have a long-term strategic vision that, at its core, emphasizes sustained shareowner value. In turn, despite differing investment strategies and tactics, shareowners should encourage corporate management to resist short-term behavior by supporting and rewarding long-term superior returns.
- 8. Access to Director Nominations:** Shareowners should have effective access to the director nomination process.

B. Domestic Principles of Accountable Corporate Governance (United States)

In the United States, CalPERS advocates the expansion of the Core Principles by companies domiciled in the United States or that list shares on U.S. stock exchanges into the Domestic Principles of Accountable Corporate Governance. CalPERS' Domestic Principles embrace the Council of Institutional Investors Corporate Governance Policies (Appendix A) and represent an evolving framework for accountable corporate governance to be applied to the U.S. capital market. In addition to encouraging portfolio

companies to adopt these principles, CalPERS implements its U.S. corporate governance initiatives and proxy voting responsibilities in a manner that is consistent with the following Domestic Principles:

1. Board Independence & Leadership

Independence is the cornerstone of accountability. It is now widely recognized throughout the U.S. that independent boards are essential to a sound governance structure. Nearly all corporate governance commentators agree that boards should be comprised of at least a majority of “independent directors.” But the definitional independence of a majority of the board may not be enough in some instances. The leadership of the board must embrace independence, and it must ultimately change the way in which directors interact with management. Independence also requires a lack of conflict between the director’s personal, financial, or professional interests, and the interests of shareowners.

“A director’s greatest virtue is the independence which allows him or her to challenge management decisions and evaluate corporate performance from a completely free and objective perspective. A director should not be beholden to management in any way. If an outside director performs paid consulting work, he becomes a player in the management decisions which he oversees as a representative of the shareholder....”

Robert H. Rock, Chairman NACD, DIRECTORS & BOARDS 5 (Summer 1996).

Accordingly, to instill board independence and leadership, CalPERS recommends:

- 1.1 Majority of Independent Directors:** At a minimum, a majority of the board consists of directors who are independent. Boards should strive to obtain board composition made up of a substantial⁴ majority of independent directors.
- 1.2 Independent Executive Session:** Independent directors meet periodically (at least once a year) alone in an executive session, without the CEO. The independent board chair or lead (or presiding) independent director should preside over this meeting.
- 1.3 Independent Director Definition:** Each company should disclose in its annual proxy statement the definition of “independence” relied upon by its board. The board’s definition of “independence” should address, at a minimum, those provisions set forth in Appendix B.
- 1.4 Independent Board Chairperson:** The board should be chaired by an independent director. The CEO and chair roles should only be combined in very limited circumstances; in these situations, the board should provide a written statement in the proxy materials discussing why the combined role is in the best interest of shareowners, and it should name a lead independent director to fulfill duties that are consistent with those provided in Appendix C.
- 1.5 Examine Separate Chair/CEO Positions:** When selecting a new chief executive officer, boards should re-examine the traditional combination of the “chief executive” and “chair” positions.
- 1.6 Board Role of Retiring CEO:** Generally, a company’s retiring CEO should not continue to serve as a director on the board and at the very least be prohibited from sitting on any of the board committees.

⁴ The National Association of Corporate Directors’ (NACD’s) Blue Ribbon Commission on Director Professionalism released its report in November 1996. (Hereafter “NACD Report”) The NACD Report calls for a “substantial majority” of a board’s directors to be independent. The Business Roundtable’s Principles of Corporate Governance (November 2005, hereafter “BRT Principles”) is in general accord that a “substantial majority” of directors should be independent, both in fact and appearance, as determined by the board. (BRT Principles, p.14) Neither the NACD, nor BRT, define “substantial.”

~~1.7 **Board Role of Corporate Insiders:** Corporate insiders are not considered independent and should therefore not constitute any more than one board seat.~~

~~1.81.7 **Board Access to Management:** The board should have a process in place by which all directors can have access to senior management.~~

~~1.91.8 **Independent Board Committees:** Certain board committees consist entirely of independent⁵ directors. These include the committees who perform the audit, director nomination, CEO evaluation, and executive compensation functions should consist entirely of independent directors.~~

~~1.401.9 **Board Oversight:** The full board is responsible for the oversight function on behalf of shareowners. Should the board decide to have other committees (e.g. executive committee) in addition to those required by law, the duties and membership of such committees should be fully disclosed.~~

~~1.411.10 **Board Resources:** The board, through its committees, should have access to adequate resources to provide independent counsel advice, or other tools that allow the board to effectively perform its duties on behalf of shareowners.~~

2 Board, Director, and CEO Evaluation

No board can truly perform its function of overseeing a company's strategic direction and monitoring management's success without a system of evaluating itself. In CalPERS' view, each director should fit within the skill sets identified by the board as necessary to focus board attention on optimizing company operating performance and returns to shareowners. No director can fulfill his or her potential as an effective board member without a personal dedication of time and energy. Corporate boards should therefore have an effective means of evaluating itself and individual director performance.

With this in mind, CalPERS recommends that:

2.1 Corporate Governance Principles: The board adopts and discloses a written statement of its own governance principles, and re-evaluates them on at least an annual basis.

2.2 Director Skill Sets and Diversity: The board establishes and discloses the mix of director attributes, experiences, diverse perspectives and skill sets that are most appropriate for the company. Core attributes of directors that make up a board should address accounting or finance, international markets, business or management experience, industry knowledge, customer-base experience or perspective, crisis response, leadership and strategic planning as well as address historically under-represented groups on the board, including women and minorities.

2.3 Board, Committee, and Director Expectations: The board establishes preparation, participation and performance expectations for itself (acting as a collective body), for the key committees and each of the individual directors. A process by which these established board, key committee and individual director expectations are evaluated on an annual basis should be disclosed to shareowners. Directors must satisfactorily perform based on the established expectations with renomination based on any other basis being neither expected nor guaranteed.

2.4 Director Nominations: With each director nomination recommendation, the board should consider the issue of continuing director tenure, as well as board diversity, and take steps as necessary to ensure that the board maintains openness to new ideas and a willingness to critically re-examine the status quo.

2.5 Director Time Commitment: The board adopts and discloses guidelines⁶ in the company's proxy statement to address competing time commitments that are faced when directors, especially acting CEOs⁷, serve on multiple boards.

⁵ As defined in Appendix A.

- 2.6 Director Attendance:** Directors should be expected to attend at least 75% of the board and key committee meetings on which they sit.
- 2.7 Board Size:** The board periodically reviews its own size, and determines the size that is most effective toward future operations.
- 2.8 CEO Performance:** Independent directors establish CEO performance criteria focused on optimizing operating performance, profitability and shareowner value creation; and regularly review the CEO's performance against those criteria.
- 2.9 CEO Succession Plan:** The board should proactively lead and be accountable for the development, implementation, and continual review of a CEO succession plan. Board members should be required to have a thorough understanding of the characteristics necessary for a CEO to execute on a long-term strategy that optimizes operating performance, profitability and shareowner value creation. At a minimum, the CEO succession planning process should:
- a. Become a routine topic of discussion by the board.
 - b. Extend down throughout the company emphasizing the development of internal CEO candidates and senior managers while remaining open to external recruitment.
 - c. Require all board members be given exposure to internal candidates.
 - d. Encompass both a long-term perspective to address expected CEO transition periods and a short-term perspective to address crisis management in the event of death, disability or untimely departure of the CEO.
 - e. Provide for open and ongoing dialogue between the CEO and board while incorporating an opportunity for the board to discuss CEO succession planning without the CEO present.
 - f. Be disclosed to shareowners on an annual basis and in a manner that would not jeopardize the implementation of an effective and timely CEO succession plan.
- 2.10 Director Succession Plan:** The board should proactively lead and be accountable for the development, implementation, and continual review of a director succession plan. Board members should be required to have a thorough understanding of the characteristics necessary to effectively oversee management's execution of a long-term strategy that optimizes operating performance, profitability, and shareowner value creation. At a minimum, the director succession planning process should:
- a. Become a routine topic of discussion by the board.
 - b. Encompass how expected future board retirements or the occurrence of unexpected director turnover as a result of death, disability or untimely departure is addressed in a timely manner.
 - c. Encompass how director turnover either through transitioning off the board or as a result of rotating committee assignments and leadership is addressed in a timely manner.
 - d. Provide for a mechanism to solicit shareowner input.
 - e. Be disclosed to shareowners on an annual basis and in a manner that would not jeopardize the implementation of an effective and timely director succession plan.

3 Executive & Director Compensation

⁶ See NACD Report, at p. 10-12 recommending that candidates who are CEOs or senior executives of public corporations be "preferred" if they hold no more than 1-2 public company directorships; other candidates who hold full-time positions be preferred if they hold no more than 3-4 public company directorships; and all other candidates be preferred if they hold no more than 5-6 other public company directorships.

⁷ "The job of being the CEO of a major corporation is one of the most challenging in the world today. Only extraordinary people are capable of performing it adequately; a small portion of these will appropriately be able to commit some energy to directorship of one other enterprise. No CEO has time for more than that." (Robert A.G. Monks, "Shareholders and Director Section", DIRECTORS & BOARDS (Autumn 1996 p.158)

Compensation programs are one of the most powerful tools available to the company to attract, retain, and motivate key employees to optimize operating performance, profitability and sustainable long-term shareowner return, as well as align their interests with the long-term interests of shareowners. ~~Poorly designed compensation packages can have disastrous impacts on the company and its shareowners by incentivizing short-term oriented behavior. Conversely, w~~Well-designed compensation programspackages can help will be adequately disclosed and align management with the long-term economic interests of shareowners, and drive long-term performance. Since equity owners have a strong interest in long-term performance and are the party whose interests are being diluted, CalPERS believes shareowners should have an effective mechanism by which to periodically promote substantive dialogue, encourage independent thinking by the board, and stimulate healthy debate for the purpose of holding management accountable for performance through ~~provide stronger oversight of executive compensation programs.~~

In recognition of this, CalPERS believes that companies should formulate executive compensation policies on a periodic basis. However, CalPERS does not generally believe that it is optimal for shareowners to approve individual contracts at the company specific level. ~~Rather, executive compensation policies should be comprehensive enough to provide shareowners with oversight of how the company will design and implement compensation programs, yet broad enough to permit the board of directors flexibility in implementing the policy.~~

Implicit in CalPERS' U.S. Principles related to executive compensation, is the belief that the philosophy and practice of executive compensation needs to be more performance-based. Through its efforts to advocate executive compensation reform, CalPERS emphasizes improved disclosure, the alignment of interests between executive management and shareowners, and enhanced compensation committee accountability for executive compensation.

With this in mind, CalPERS recommends the following:

Executive Compensation

3.1 Structure and Components of Total Compensation

- a. **Board Designed, Implemented, and Disclosed to Shareowners:** To ensure the alignment of interest with long-term shareowners, executive compensation programs are to be designed, implemented, and disclosed to shareowners by the board, through an independent compensation committee. Executive compensation programs should not restrict the company's ability to attract and retain competent executives.
- b. **Mix of Cash and Equity:** Executive compensation be comprised of a combination of cash and equity based compensation.
- c. **Shareowner Advisory Vote on Executive Compensation:** Companies submit executive compensation policies to shareowners for non-binding approval on an annual basis.
- d. **Executive Contract Disclosure:** Executive contracts be fully disclosed, with adequate information to judge the "drivers" of incentive components of compensation packages.
- e. **Targeting Total Compensation Components:** Overall target ranges of total compensation and components therein including base salary, short-term incentive and long-term incentive components should be disclosed.
- f. **Peer Relative Analysis:** Disclosure should include how much of total compensation is based on peer relative analysis and how much is based on other criteria.

3.2 Incentive Compensation

- a. **Performance Link:** A significant portion of executive compensation should be comprised of "at risk" pay linked to optimizing the company's operating performance and profitability that results in shareowner value creation.

- b. **Types of Incentive Compensation:** The types of incentive compensation to be awarded should be disclosed such as the company's use of options, restricted stock, performance shares or other types.
- c. **Establishing Performance Metrics:** Performance metrics such as total stock return, return on capital, return on equity and return on assets, should be set before the start of a compensation period while the previous years' metrics which triggered incentive payouts should be disclosed.
- d. **Multiple Performance Metrics:** Plan design should utilize multiple performance metrics when linking pay to performance.
- e. **Performance Hurdles:** Performance hurdles⁸ that align the interests of management with long-term shareowners should be established with incentive compensation being directly tied to the attainment and/or out-performance of such hurdles. Provisions by which compensation will not be paid if performance hurdles are not obtained should be disclosed to shareowners.
- f. **Retesting Incentive Compensation:** Provisions for the resetting of performance hurdles in the event that incentive compensation is retested⁹ should be disclosed.
- g. **Clawback Policy:** Companies should develop and disclose a policy for recapturing incentive payments that were made to executives on the basis of having met or exceeded performance targets during a period of fraudulent activity or a material negative restatement of financial results for which executives are found personally responsible.

3.3 Equity Compensation

- a. **Equity Ownership:** Executive equity ownership should be required through the attainment and continuous ownership of a significant equity investment in the company. Executive stock ownership guidelines and holding requirements should be disclosed to shareowners on an annual basis.
- b. **Equity Grants Linked to Performance:** Equity based compensation plans should incorporate performance based equity grant vesting requirements tied to achieving performance metrics. The issuance of discounted equity grants or time accelerated vesting are not desirable performance based methodologies.
- c. **Unvested Equity Acceleration upon a Change-in-Control:** In the event of a merger, acquisition, or change-in-control, unvested equity should not accelerate but should instead convert into the equity of the newly formed company.
- d. **Recapturing Dividend Equivalent Payouts:** Companies should develop and disclose a policy for recapturing dividend equivalent payouts on equity that does not vest.
- e. **Equity Grant Vesting Period:** Equity grants should vest over a period of at least three years.
- f. **Board Approval of Stock Options:** The board's methodology and corresponding details for approving stock options for both company directors and employees should be highly transparent and include disclosure of: 1) quantity, 2) grant date, 3) strike price, and 4) the underlying stock's market price as of grant date. The approval and granting of stock options for both directors and employees should preferably occur on a date when all corporate actions are taken by the board.

⁸ Executive compensation should directly link the interests of senior management, both individually and as a team, to the long-term interests of shareholders. It should include significant performance-based criteria related to long-term shareholder value and should reflect upside potential and downside risk. (BRT Principles pg. 24)

⁹ "Retested" means extending a performance period to enable initial performance hurdles to be achieved.

The board should also require a report from the CEO stating specifically how the board's delegated authority to issue stock options to employees was used during the prior year.

- g. Equity Grant Repricing:** Equity grant repricing without shareowner approval should be prohibited.
- h. Evergreen or Reload Provisions:** “Evergreen”¹⁰ or “Reload”¹¹ provisions should be prohibited.
- i. Distribution of Equity Compensation:** How equity-based compensation will be distributed within various levels of the company should be disclosed.
- j. Equity Dilution and Run Rate Provisions:** Provisions for addressing the issue of equity dilution, the intended life of an equity plan, and the expected yearly run rate of the equity plan should be disclosed.
- k. Equity Repurchase Plans:** If the company intends to repurchase equity in response to the issue of dilution, the equity plan should clearly articulate how the repurchase decision is made in relation to other capital allocation alternatives.
- l. Shareowner Approval:** All equity based compensation plans or material changes to existing equity based compensation plans should be shareowner approved.
- m. Cost of Equity Based Compensation:** Reasonable ranges which the board will target the total cost of new or material changes to existing equity based compensation plans should be disclosed. The cost of new or material changes to existing equity based compensation plans should not exceed that of the company's peers unless the company has demonstrated consistent long-term economic out performance on a peer relative basis.

3.4 Use and Disclosure of Severance Agreements

- a. Severance Agreement Disclosure:** In cases where the company will consider severance agreements¹², the policy should contain the overall parameters of how such agreements will be used including the specific detail regarding the positions within the company that may receive severance agreements; the maximum periods covered by the agreements; provisions by which the agreements will be reviewed and renewed; any hurdles or triggers that will affect the agreements; a clear description of what would and would not constitute termination for cause; and disclosure of where investors can view the entire text of severance agreements.
- b. Severance Agreement Amendments:** Material amendments to severance agreements should be disclosed to shareowners.
- c. Shareowner Approval of Severance Payments:** Severance payments that provide benefits¹³ with a total present value exceeding market standards¹⁴ should be ratified by shareowners.

¹⁰ Evergreen provisions provide a feature that automatically increases the shares available for grant on an annual basis. Evergreen provisions include provisions for a set number of shares to be added to the plan each year, or a set percentage of outstanding shares.

¹¹ Reload provisions allow an optionee who exercises a stock option using stock already owned to receive a new option for the number of shares used to exercise. The intent of reload options is to make the optionee whole in cases where they use existing shares they own to pay the cost of exercising options.

¹² Severance agreement means any agreement that dictates what an executive will be compensated when the company terminates employment without cause or when there is a termination of employment following a finally approved and implemented change in control.

¹³ Severance benefits mean the value of all cash and non-cash benefits, including, but not limited to, the following: (i) cash benefits; (ii) perquisites; (iii) consulting fees; (iv) equity and the accelerated vesting of equity, (v) the value

3.5 Use of “Other” Forms of Compensation

- a. **Alternative Forms of Compensation:** Compensation policies should include guidelines by which the company will use alternative forms¹⁵ of compensation (“perquisites”), and the relative weight in relation to total compensation if perquisites will be utilized. To the degree that the company will provide perquisites, it should clearly articulate how shareowners should expect to realize value from these other forms of compensation.

3.6 Use of Retirement Plans

- a. **Defined Contribution/Benefit Plans:** Defined contribution and defined benefit retirement plans should be clearly disclosed in tabular format showing all benefits available whether from qualified or non-qualified plans and net of any offsets.

Director Compensation

3.7 Director Compensation

- a. **Combination of Cash and Equity:** Director compensation should be a combination of cash and stock in the company.
- b. **Equity Ownership:** Director equity ownership should be required through the attainment and continuous ownership of an equity investment in the company. Director stock ownership guidelines and holding requirements should be disclosed to shareowners on an annual basis.

4 Audit Integrity

As a shareowner, CalPERS has a vested interest in maintaining the integrity and efficiency of the capital markets. For this reason, CalPERS is a strong supporter of reform to ensure the integrity of financial reporting. CalPERS believes that independence and objectivity of the external auditor is necessary to maintain investor's confidence in the market.

To maintain investor's confidence, companies should support the development of an accurate audited financial reporting framework. CalPERS believes annual audits of financial reporting should be required for all companies and carried out by an independent external auditor. The overall objective of a financial statement audit is to evaluate whether the financial statements meet financial reporting, governance and control standards and applicable legal and regulatory requirements. This audit should provide an objective opinion that the financial statements and accounts give a true and fair view of the company's financial state, that the company kept proper accounting records, and that these records contain accurate information about the entity's resources, claims to those resources and changes in resources and claims. The audit opinion should state that it is useful primarily to the existing shareowners and creditors and secondarily to potential investors, creditors and others making similar resource allocation decisions. CalPERS recommends the following:

- 4.1 Auditor Ratification by Shareowners:** The selection of the independent external auditor should be ratified by shareowners annually.

of “gross-up” payments; and (vi) the value of additional service credit or other special additional benefits under the company's retirement system. Severance benefits do not include already accrued pension benefits.

¹⁴ The disclosed threshold in the United States should not exceed 2.99 times the sum of the executive's base salary plus target bonus.

¹⁵ “Other” forms of compensation include, but are not limited to, pension benefits including terms of deferred pay, perquisites and loans.

4.2 Non-Audit Fees: The board, through its independent Audit Committee, should ensure that excessive non-audit fees are prohibited. To limit the risk of possible conflicts of interest and independence of the auditor, non-audit services and fees paid to auditors for non-audit services should both be approved in advance by the Audit Committee and disclosed in the proxy statement on an annual basis.

4.3 Auditor Independence: The Audit Committee should assess the independence of the external auditing firm on an annual basis. Prior to acceptance of an external auditor engagement, the Audit Committee should require written disclosure from the external auditor of:

- a. all relationships between the registered public accounting firm or any affiliates of the firm and the potential audit clients or persons in a financial reporting oversight role that may have a bearing on independence;
- b. the potential effects of these relationships on the independence in both appearance and fact of the registered public accounting firm;
- c. the substance of the registered accounting firm's discussion with the audit committee.

4.4 Assertion of Internal Financial Controls: The Audit Committee should require the auditor's opinion to include an opinion to include commentary on any management assertion that the system of internal financial controls is operating effectively and efficiently, that assets are safeguarded, and that financial information is reliable as of a specific date, based on a specific integrated framework of internal controls.

4.5 Audit Committee Oversight: To ensure the integrity of audited financial statements, the corporation's interaction with the external auditor should be overseen by the audit committee on behalf of shareowners.

4.6 Audit Committee Expertise: Audit committee financial expertise at a minimum should include skill-sets as outlined by Section 407(d)(5)(i) of Regulation S-K and the Exchange listing requirements. Boards should consider the effectiveness of the audit committee and designated financial expert(s) in its annual assessment. Firms may be able to reduce their cost of capital as related to the quality of its financial reporting. The quality of financial reporting can be increased by appropriately structuring the audit committee with effective financial expertise.

4.7 Auditor Liability: To strengthen the auditor's objective and unbiased audit of financial reporting, audit committees should ensure that contracts with the auditor do not contain specific limits to the auditor's liability to the company for consequential damages or require the corporation to use alternative dispute resolution.

4.8 Auditor Selection: Audit committees should promote expanding the pool of auditors considered for the annual audit to help improve market competition and thereby minimize the concentration of only a small number of audit firms from which to engage for audit services. To allow audit committees a robust foundation to determine audit firm independence, auditors should provide 3 prior years of activities, relationships, and services (including tax services) with the company, affiliates of the company and persons in financial reporting oversight roles that may impact the independence of the audit firm.

4.9 Auditor Rotation: Audit committees should promote rotation of the auditor every 5 – 7 years to ensure a fresh perspective and review of the financial reporting framework.

5 Corporate Responsibility

Shareowners can be instrumental in encouraging responsible corporate citizenship. CalPERS believes that environmental, social, and corporate governance issues can affect the performance of investment portfolios (to varying degrees across companies, sectors, regions, and asset classes through time.) Therefore, CalPERS joined 19 other institutional investors from 12 countries to develop and become a signatory to The Principles for Responsible Investment (Appendix D).

CalPERS expects companies whose equity securities are held in the Fund's portfolio to conduct themselves with propriety and with a view toward responsible corporate conduct. If any improper practices come into being, companies should move decisively to eliminate such practices and affect adequate controls to prevent recurrence. A level of performance above minimum adherence to the law is generally expected. To further these goals, in September 1999 the CalPERS Board adopted the Global Sullivan Principles of Corporate Social Responsibility.

CalPERS believes that boards that strive for active cooperation between corporations and stakeholders¹⁶ will be most likely to create wealth, employment and sustainable economies. With adequate, accurate and timely data disclosure of environmental, social, and governance practices, shareowners are able to more effectively make investment decisions by taking into account those practices of the companies in which the Fund invests. Therefore, CalPERS recommends that:

5.1 Human Rights Violations: Corporations adopt maximum progressive practices toward the elimination of human rights violations in all countries or environments in which the company operates. Adherence to a formal set of principles such as those exemplified in Appendix E, the Global Sullivan Principles¹⁷, or the human rights and labor standards principles exemplified by the United Nations Global Compact¹⁸, is recommended.

5.2 Environmental Disclosure: To ensure sustainable long-term returns, companies should provide accurate and timely disclosure of environmental risks and opportunities through adoption of policies or objectives, such as those associated with climate change. Companies should apply the Global Framework for Climate Risk Disclosure¹⁹ (Appendix F) when providing such disclosure. The 14 point Ceres Climate Change Governance Checklist (Appendix G) is recommended as a tool by companies to assist in the application of the Global Framework for Climate Risk Disclosure.

5.3 Sustainable Corporate Development: Corporations strive to measure, disclose, and be accountable to internal and external stakeholders for organizational performance towards the goal of sustainable development. It is recommended that corporations adopt the Global Reporting Initiative Sustainability Reporting Guidelines²⁰ to disclose economic, environmental, and social impacts.

5.4 Reincorporation: When considering reincorporation, corporations should analyze shareowner protections, company economic, capital market, macro economic, and corporate governance considerations.

6 Shareowner Rights

¹⁶ In accordance with the Global Reporting Initiative: Stakeholders are defined broadly as those groups or individuals: (a) that can reasonably be expected to be significantly affected by the organization's activities, products, and/or services; or (b) whose actions can reasonably be expected to affect the ability of the organization to successfully implement its strategies and achieve its objectives.

¹⁷ CalPERS adopted the Global Sullivan Principles of Corporate Social Responsibility in September 1999.

¹⁸ The United Nations Global Compact is a framework for businesses that are committed to aligning their operations and strategies with ten principles in the areas of human rights, labor, the environment and anti-corruption.

¹⁹ Additional information on the Framework and a Guide for Using the Global Framework for Climate Risk Disclosure is available on the CalPERS website: www.calpers-governance.org.

²⁰ Adoption of the Guidelines will provide companies with a reporting mechanism through which to disclose, at a minimum, implementation of the Global Sullivan Principles and the Global Framework for Climate Risk Disclosure. The Guidelines along with additional information on GRI can be found at www.globalreporting.org.

Shareowner rights²¹ – or those structural devices that define the formal relationship between shareowners and the directors to whom they delegate corporate control – should be featured in the governance principles adopted by corporate boards. Therefore, CalPERS recommends that corporations adopt the following corporate governance principles affecting shareowner rights:

6.1 Majority Vote Requirements: Shareowner voting rights should not be subject to supermajority voting requirements, while a majority of proxies cast should be able to:

- a. Amend the company's governing documents such as the Bylaws and Charter by shareowner resolution.
- b. Remove a director with or without cause.

6.2 Majority Vote Standard for Director Elections: In an uncontested director election, a majority of proxies cast should be required to elect a director. In a contested election, a plurality of proxies cast should be required to elect a director. Resignation for any director that receives a withhold vote greater than 50% of the votes cast should be required. Unless the incumbent director receiving less than a majority of the votes cast has earlier resigned, the term of the incumbent director should not exceed 90 days after the date on which the voting results are determined.

6.3 Special Meetings and Written Consent: A majority of shareowners should be able to call special meetings or act by written consent.

~~**6.4 Director Removal With or Without Cause:** A majority of proxies cast should be able to remove a director with or without cause. Unless the incumbent director has earlier resigned, the term of the incumbent director should not exceed 90 days after the date on which the voting results are determined.~~

6.56.4 Sponsoring and Implementation of Shareowner Resolutions: Shareowners should have the right to sponsor resolutions. A shareowner resolution that is approved by a majority of proxies cast should be implemented by the board.

6.66.5 Prohibit Greenmail: Every company should prohibit greenmail.

6.76.6 Poison Pill Approval: No board should enact nor amend a poison pill except with shareowner approval.

6.86.7 Annual Director Elections: Every director should be elected annually.

6.96.8 Proxy Confidentiality: Proxies should be kept confidential from the company, except at the express request of shareowners.

6.106.9 Broker Non-Votes: Broker non-votes should be counted for quorum purposes only.

6.116.10 Cumulative Voting Rights: Shareowners should have the right to cumulate²² votes in a contested election of directors.

C. International Principles of Accountable Corporate Governance

For companies that are not domiciled in the United States nor trade on U.S. stock exchanges, CalPERS advocates the expansion of the Core Principles into the International Corporate Governance Network ("ICGN") Corporate Governance Principles. As a founding member of ICGN, CalPERS believes the ICGN

²¹ Lucian Bebchuk, Alma Cohen, and Allen Ferrell, "What matters in Corporate Governance," (2004), The John M. Olin Center for Law, Economics and Business of Harvard University: Found that portfolios of companies with strong shareowner-rights protections outperformed portfolios of companies with weaker protections by 8.5% per year.

²² Such a right gives shareowners the ability to aggregate their votes for directors and either cast all of those votes for one candidate or distribute those votes for any number of candidates.

Principles represent an evolving framework for accountable corporate governance to be applied outside of the United States. In addition to encouraging portfolio companies to adopt these principles, CalPERS implements its international corporate governance initiatives and proxy voting responsibilities in a manner that is consistent the following ICGN Principles:

The ICGN Principles²³ are as follows:

1. Corporate Objective – Shareowner Returns

- 1.1 Optimizing Return to Shareowners:** The overriding objective of the corporation should be to optimize over time the returns to its shareowners. Corporate governance practices should focus board attention on this objective. In particular, the company should strive to excel in comparison with the specific equity sector peer group benchmark. Where other considerations affect this objective, they should be clearly stated and disclosed.
- 1.2 Long Term Prosperity of the Business:** To achieve this objective, the board should develop and implement a strategy for the corporation which improves the equity value over the long term.

2. Disclosure & Transparency

- 2.1 Objective:** Corporations should disclose relevant and material information concerning the corporation on a timely basis, in particular meeting market guidelines where they exist, so as to allow investors to make informed decisions about the acquisition, ownership obligations and rights, and sale of shares.
- 2.2 Disclosure of Ownership and Voting Rights:** In addition to financial and operating results, company objectives, risk factors, stakeholder issuers and governance structures, the information should include a description of the relationship of the company to other companies in the corporate group, data on major shareowners and others that control or may control the company, including information on special voting rights, shareowner agreements, the beneficial ownership of controlling or large blocks of shares, significant cross-shareholding relationships and cross-guarantees as well as information on differential voting rights and related party transactions.

3. Audit

- 3.1 Accounting Principles:** The ICGN supports the development of the highest-quality international accounting and financial reporting standards. The ICGN also supports the harmonization of such standards and encourages corporations to apply those or other standards of comparable quality.
- 3.2 Audit Independence:** Annual audits of the financial statements carried out on behalf of shareowners should be required for all corporations. The audit should be carried out by independent, external auditors who should be proposed by or with the assistance of, the audit committee of the board (or its equivalent where applicable) for approval by shareowners. The corporation's interaction with the external auditor should be overseen by the audit committee on behalf of the shareowners. To limit the risk of possible conflicts of interest, non-audit services and fees paid to auditors for non-audit services should be both approved in advance by the audit committee and disclosed in the annual report.
- 3.3 Annual Audit:** The annual audit should provide an external and objective opinion that the financial statements fairly represent the financial position and performance of the company in all material respects, give a true and fair view of the affairs of the company and are in compliance with applicable law and regulations as appropriate.
- 3.4 Scope of Audit:** The scope of the audit will be as prescribed by applicable law, provided that shareowners should have the right to expand the scope of the audit.

²³ The ICGN Corporate Governance Principles were revised July 8, 2005 at the annual conference in London, UK.
Global Principles of Accountable Corporate Governance

- 3.5 Approval of Financial Statements and Internal Controls:** The board of directors, and where required, the appropriate officers of the corporation should affirm on a regular basis (at least annually), the accuracy of the company's financial statements or financial accounts, as appropriate, and the adequacy of its internal controls.

4. Shareowners' Ownership, Responsibilities, Voting Rights, and Remedies

- 4.1 Shareowner Ownership Rights:** The exercise of ownership rights by all shareowners should be facilitated, including giving shareowners reasonable notice of all matters in respect of which shareowners are required to or may take action in the exercise of voting rights.
- 4.2 Protections:** Boards should treat all corporations' shareowners equitably and should ensure that the rights of all investors, including minority and foreign shareowners, are protected.
- 4.3 Unequal Voting:** Corporations' ordinary shares should feature one vote for each share. Corporations should act to ensure the owners' rights to vote. Divergence from a 'one-share, one-vote' standard which gives certain shareowners power disproportionate to their equity ownership should be both disclosed and justified.
- 4.4 Access to the Vote:** The right and opportunity to vote at shareowner meetings hinges in part on the adequacy of the voting system. Markets and companies should facilitate access to the ballot by following the ICGN's *Global Share Voting Principles*. In particular, the ICGN supports initiatives to expand voting options to include the secure use of telecommunication and other electronic channels.
- 4.5 Shareowner Participation in Governance:** Shareowners should have the right to participate in key corporate governance decisions, including the right to nominate, appoint and remove directors on an individual basis as well as the external auditor and the right to approve major decisions of the nature referred to in Section 4.9. Jurisdictions which do not have laws enabling the appointment and removal of a director or an external auditor by shareowners holding a majority of votes should enact them. Companies incorporated in such jurisdictions should nevertheless strive to provide such rights to shareowners.
- 4.6 Shareowners Right to Call a Meeting of Shareowners:** Every corporation should provide owners of a specified portion of the outstanding shares of a corporation, not greater than ten percent (10%), with the right to call a meeting of shareowners for the purpose of transacting the legitimate business of the corporation.
- 4.7 Shareowner Resolutions:** Jurisdictions should enact laws which provide shareowners with the right to put resolutions to a shareowners meeting which may be either advisory to the board of directors or may be binding upon the board of directors depending upon the criteria which must be satisfied by the shareowners putting the resolution.
- 4.8 Shareowner Questions:** Shareowners should be provided with the right to ask questions of the board, management and the external auditor at meetings of shareowners, including questions relating to the board and questions relating to the annual external audit. In addition, shareowners should have the right to receive and discuss the annual audited financial statements of the corporation.
- 4.9 Major Decisions:** Major changes to the core businesses of a corporation and other major corporate changes which may in substance or effect materially dilute the equity or erode the economic interests or share ownership rights of existing shareowners, including major acquisitions and major dispositions and closures of businesses, should not be made without prior shareowner approval of the proposed change. The equity component of compensation schemes for board members and employees should be subject to shareowner approval. Further, corporations should not implement shareowner rights plans or so called "poison pills" without shareowner approval. In addition, changes to the articles or by-laws of the corporation should not

be made without prior shareowner approval. Shareowners should be given sufficient information about any such corporate changes, in sufficient time to allow them to make informed judgments and exercise their voting rights.

- 4.10 Duty to Vote:** Corporate voting systems should be designed to enable institutional investors to discharge their fiduciary obligation to vote their shares, recognizing the duty of institutional investors to vote their shares responsibly, wherever practicable. Similarly, regulations and laws should facilitate voting rights and should eliminate impediments to cross-border voting.
- 4.11 Institutional Shareowner Responsibilities:** Institutional investors should discharge their responsibilities as shareowners as set out in the ICGN Statement on Institutional Shareowner Responsibilities.
- 4.12 Consultation amongst Institutional Shareowners:** Jurisdictions which do not have laws allowing institutional investors to consult on issues concerning their basic shareowner rights should enact such laws.
- 4.13 Vote Execution:** Votes cast by intermediaries should be cast only in accordance with the instructions of the beneficial owner or his or her authorized agent.
- 4.14 Record of Ownership of a Corporation's Shares:** Every corporation shall maintain a record of the registered owners of its shares and every corporation should be entitled to require such registered owners to provide the corporation with the identity of beneficial owners if the registered owner is not the beneficial owner. Jurisdictions which do not give corporations the right to require registered owners to provide the corporation with the identity of beneficial owners if the registered owner is not the beneficial owner are encouraged to enact laws which give corporations such rights. Corporations should also be entitled to know the identity of the person authorized to vote shares, if that right is exercised by a person other than the registered owner.
- 4.15 Disclosing Voting Results:** Equal effect should be given to votes whether cast in person or in absentia and meeting procedures should ensure that votes are properly counted and recorded. Corporations should make a timely announcement of the outcome of a vote and to implement this recommendation, corporations should publish voting levels for each resolution forthwith following the meeting.
- 4.16 Shareowner Rights of Action:** Shareowners should be afforded rights of action and remedies which are readily accessible in order to redress conduct of a corporation which treats them inequitably. In addition, minority shareowners should be afforded protection and remedies against abusive or oppressive conduct. Jurisdictions with systems of justice which do not effectively afford shareowners the foregoing rights should facilitate the development of alternative mechanisms for the resolution of disputes involving inequitable, abusive or oppressive treatment of shareowners.

5. Corporate Boards

These Principles do not advocate any particular board structure and the term “board” as used in this document is meant to embrace the different national models of board structures. In the typical two-tier system, “board” as used in the Principles refers to the “supervisory board” while “key executives” refers to the “management board”. Although not totally appropriate terminology for a supervisory board in the context of a two-tier board, the term “director” is used to be interchangeable with the term “board member”.

- 5.1 Duties of the Board:** The board's duties and responsibilities and key functions, for which they are accountable, include those set out below:
- i. Reviewing, approving and guiding corporate strategy, major plans of action, risk policy, annual budgets and business plans; setting performance objectives; monitoring implementation and corporate performance; and overseeing major capital expenditures, acquisitions and divestitures.

- ii. Monitoring the effectiveness of the company's governance practices and making changes as needed to ensure the alignment of the corporation's governance system with current best practices.
- iii. Selecting, compensating, monitoring and, when necessary, replacing key executives and overseeing succession planning.
- iv. Aligning key executive and board remuneration with the longer term interests of the company and its shareowners.
- v. Ensuring a formal and transparent board nomination and election process.
- vi. Monitoring and managing potential conflicts of interest of management, board members, shareowners, external advisors and other service providers, including misuse of corporate assets and abuse in related party transactions.
- vii. Ensuring the integrity of the corporation's accounting and financial reporting systems, including the independent audit, and that appropriate systems of control are in place, in particular, systems for risk management, financial and operational control, and compliance with the law and relevant standards.
- viii. Overseeing the process of disclosure and communications.

5.2 Director Competencies: The board should ensure that it is made up of directors with the requisite range of skills, knowledge and experience to enable it to discharge its duties and responsibilities.

5.3 Directors are Fiduciaries: Members of the boards of directors or supervisory boards are fiduciaries who must act in the best interests of all of the shareowners or in the best interests of the corporation and are accountable to the shareowner body as a whole. As fiduciaries, directors owe a duty of loyalty to the corporation and must exercise reasonable care in relation to their duties as directors.

5.4 Independent-Minded Directors: One of the principle features of a well-governed corporation is the exercise by its board of directors of independent judgment. Independent judgment means judgment in the best interests of the corporation free of any external influence that may attempt to be or may be or may appear to be exerted on any individual director or the board as a whole.

5.5 Factors Affecting Independence: A common source of influence arises from a relationship which a director has with the corporation, such as a consulting agreement. The potential influence arises because the contract may have been awarded by management. In addition, a significant shareowner may attempt to influence the judgment of a director in the interests of a significant shareowner rather than in the interests of the corporation. Individual directors with relationships to management or to a significant shareowner are by definition not considered to be independent; however, the absence of such relationships does not guarantee independent judgment.

5.6 Disclosing the Meaning of Independence: These Principles do not offer a comprehensive definition of an "independent director." Such definitions vary from jurisdiction to jurisdiction and reflect different approaches to the drafting of codes of governance. These Principles simply underline the importance of all directors being independent-minded which means exercising objective judgment in the best interests of the corporation in all circumstances regardless of the consequences which such judgment may have for the director personally. However, every corporation should disclose its definition of independence (which should be at least as strict as the requirements of applicable law) and should disclose its determination as to each member of its board of directors whether such member is independent.

5.7 Independent Board Members: Each board should include a strong presence of independent non-executive directors with appropriate competencies including key industry sector knowledge and experience.

5.8 Non-Executive Non-Independent Board Members: Each board may also include a minority of directors who are non-executive directors and who are not independent but who may nevertheless effectively discharge their responsibilities as directors because of, amongst other things, a relationship with the corporation or past experience with the corporation.

- 5.9 Information on Board Members:** Corporations should disclose upon nomination or appointment to the board and thereafter in each annual report or proxy statement information on the identities, core competencies, professional or other backgrounds, recent and current board and management mandates at any other corporations, factors affecting independence, board and committee meeting attendance and overall qualifications of board members and nominees so as to enable investors to weigh the value they add to the company. Information on the appointment procedure should also be disclosed annually.
- 5.10 Election of Directors:** Each director should stand for election on a regular basis and, in any event, at least once every three years and shareowners should be entitled to vote on the election of each director separately.
- 5.11 Board Chairs:** The chair of the board should neither be the CEO nor a former CEO and should be independent on the date of appointment as chair and should not participate in executive compensation plans. The corporation should explain the reasons, if this is not the case, and in such event should adopt an appropriate alternative structure to ensure that the board responsibilities can be effectively discharged in all circumstances, for example by appointing a deputy chair who is independent.
- 5.12 Board Committees:** Where committees of the board are established, their remit, composition, accountability and working procedures should be well-defined and disclosed by the board.
- 5.13 Independent Committees:** All corporations should establish the key committees of the board which include the audit, compensation and nomination/governance committees. At least a majority and, preferably all members of the audit committee should be independent. The compensation and nomination/governance committees should be composed of a majority of independent directors.
- 5.14 Related Party Transactions:** Every corporation should have a process for reviewing and monitoring any related party transaction. Typically, a committee of independent directors should review every related party transaction to determine whether such transaction is in the best interests of the corporation and if so, ensure that the terms of such transaction are fair to the corporation. The corporation should disclose details of all material related party transactions in the annual report of the corporation.
- 5.15 Director Conflicts of Interest:** Corporations should have a process for identifying and managing conflicts of interest directors may have. If a director has an interest in a matter under consideration by the board, then the director and the board should follow that process.
- 5.16 Board Evaluation:** Every board of directors should evaluate its performance and the performance of individual directors on a regular basis and should consider engaging an outside consultant to assist in the process. Every corporation should disclose the process for such evaluation.
- 5.17 Non-Executive Director Meeting:** Non-executive directors should meet in the absence of executives of the corporation as often as required and on a regular basis.
- 5.18 Share Ownership:** Every corporation should have and disclose a policy concerning ownership of shares of the corporation by senior managers and directors with the objective of aligning the interests of the senior managers and directors with the interests of shareowners in a meaningful way.

6. Corporate Remuneration Policies

- 6.1 Aligning Remuneration with the Interests of Shareowners:** Corporations should follow the best practices for remuneration set out in the most current policy (Appendix HG) of the ICGN.

7. Corporate Citizenship, Stakeholder Relations and the Ethical Conduct of Business

- 7.1 Board Responsibilities and Duties in Relation to Stakeholders:** The board is accountable to shareowners and responsible for managing successful and productive relationships with the corporation's stakeholders. The ICGN concurs in the view that active cooperation between corporations and stakeholders is essential in creating wealth, employment and financially-sound enterprises over time.
- 7.2 Compliance with Laws:** Corporations should adhere to all applicable laws of the jurisdictions in which they operate.
- 7.3 Disclosure of Policies:** Corporations should disclose their policies on issues involving stakeholders²⁴.
- 7.4 Employee Participation:** Corporations are encouraged to develop performance-enhancing mechanisms which align employee interests with shareowner and other stakeholder interests. These include broad-based employee share ownership plans or other profit-sharing programs that are designed to enable employees to share in improved returns to shareowners.
- 7.5 Corporate Social Responsibility:** Corporations should adopt and effectively implement a code of ethics and should conduct their activities in an economically, socially and environmentally responsible manner²⁵.
- 7.6 Integrity:** The board is responsible for determining, implementing and maintaining a culture of integrity.

8. Corporate Governance Implementation

- 8.1 Compliance with and Disclosure of Governance Codes and Systems:** Corporations should comply with a widely recognized national corporate governance code which is generally in line with these ICGN Principles. Where such a code does not exist, investors and others should endeavor to develop a code. Where the ICGN Principles are more rigorous than those of national codes, companies are encouraged to adopt the ICGN Principles. Each corporation should disclose the code that is applicable to it, whether it is complied with and, where not, the reasons for non-compliance. Institutional investors should give due and informed consideration to explanations given by corporation for such non-compliance.
- 8.2 Resolution of Governance Issues:** Corporate governance issues between shareowners, the board, and management should be addressed through dialogue and, where appropriate, with government and regulatory representatives as well as other concerned bodies, so as to resolve disputes, if possible, through negotiation, mediation or arbitration. Where those means fail, more forceful actions should be available. For instance, investors should have the right to sponsor resolution and/or convene extraordinary meetings.

D. Emerging Markets Principles of Accountable Corporate Governance

CalPERS advocates the expansion of the Core Principles by companies in emerging markets into the Emerging Markets Principles of Accountable Corporate Governance.

Shareowners can be instrumental in encouraging responsible corporate citizenship. CalPERS believes that environmental, social, and corporate governance issues can affect the performance of investment

²⁴ CalPERS recommends that corporations adopt maximum progressive practices toward the elimination of human rights violations in all countries or environments in which the company operates.

²⁵ CalPERS recommends that corporations adopt the Global Reporting Initiative Sustainability Reporting Guidelines to disclose economic, environmental, social, and governance impacts.

portfolios (to varying degrees across companies, sectors, regions, and asset classes through time.) Therefore, CalPERS joined 19 other institutional investors from 12 countries to develop and become a signatory to The Principles for Responsible Investment (Appendix D).

CalPERS expects developed and emerging economy companies whose equity securities are held in the Fund's portfolio to conduct themselves with propriety and with a view toward responsible corporate conduct. If any improper practices come into being, companies should move decisively to eliminate such practices and effect adequate controls to prevent recurrence. A level of performance above minimum adherence to the law is generally expected. CalPERS believes that Boards that strive for active cooperation between corporations and stakeholders²⁶ will be most likely to create wealth, employment and sustainable economies.

CalPERS recognizes that adopting formal corporate governance principles, such as the ICGN Principles in its entirety, may not be appropriate for every company in emerging capital markets. However, with adequate, accurate, and timely disclosure of environmental, social, and governance practices, investors are able to more effectively make investment decisions by taking into account those practices.

Good governance and sustainable development are mutually achievable. While companies in emerging markets should strive to meet the governance practices presented by the ICGN Principles, CalPERS recommends those emerging markets companies focus first and foremost on adopting the Core Principles with emphasis on practices that promote sustainable economic, environmental, social, and governance development. Thus, companies in emerging capital markets should formalize a reporting mechanism by which sustainable development practices can be disclosed to stakeholders, including shareowners.

CalPERS recommends:

- 1. Sustainable Long-Term Value Creation:** Companies should adopt corporate reporting guidelines, such as the Global Reporting Initiative Sustainability Reporting Guidelines²⁷ in order to measure, disclose, and be accountable to internal and external stakeholders for organizational performance towards the goal of sustainable long-term value creation. Disclosure reporting guidelines should include:
 - a. The effect of economic, environmental, social and governance impacts, risks and opportunities related to the company's stakeholders.
 - b. Activities the company is undertaking to protect shareowner rights and investment capital within its local emerging market.
- 2. Eliminating Human Rights Violations:** Adopt maximum progressive practices toward the elimination of human rights violations. Adherence to a formal set of principles such as those exemplified in Appendix E, the Global Sullivan Principles or the human rights and labor standards principles exemplified by the United Nations Global Compact, is recommended.

IV. CONCLUSION

By adopting the Global Principles of Accountable Corporate Governance, CalPERS strives to advance corporate governance best practices for the purpose of creating sustainable long-term investment returns

²⁶ In accordance with the Global Reporting Initiative: Stakeholders are defined broadly as those groups or individuals: (a) that can reasonably be expected to be significantly affected by the organization's activities, products, and/or services; or (b) whose actions can reasonably be expected to affect the ability of the organization to successfully implement its strategies and achieve its objectives.

²⁷ Adoption of the Guidelines will provide companies with a reporting mechanism through which to disclose economic, environmental, social, and governance practices. The Guidelines along with additional information on GRI can be found at www.globalreporting.org.

and protecting the System's rights as a shareowner. CalPERS encourages other investors to incorporate these Global Principles into ownership policies and practices as a basis for advancing a foundation for accountability between a corporation's board of directors, management and its owners. With continued experience and communication between the board, corporate managers and owners, the issue of accountability can become – if not resolved – more clear.

“As conflict – difference – is here in the world, as we cannot avoid it, we should, I think, use it. Instead of condemning it, we should set it to work for us... So in business, we have to know when to ... try to capitalize [on conflict], when to see what we can make it do.... [In that light] it is possible to conceive of conflict as not necessarily a wasteful outbreak of incompatibilities but a normal process by which socially valuable differences register themselves for the enrichment of all concerned.... Conflict at the moment of the appearing and focusing of difference may be a sign of health, a prophecy of progress.”

THE PRICE WATERHOUSE CHANGE INTEGRATION TEAM, THE PARADOX PRINCIPLES 275 (quoting Mary Parker Follett) (1996).

APPENDIX A

The Council of Institutional Investors Corporate Governance Policies²⁸

The Council of Institutional Investors is the premier U.S. shareowner-rights organization. It is a not-for-profit association of 130 public, labor, and corporate pension funds with assets exceeding \$3 trillion. The Council works to educate members and the public about corporate governance, and to advocate for strong governance standards on issues ranging from executive compensation to the election of corporate directors.



The Council of Institutional Investors Corporate Governance Policies

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- 1.3 Disclosed Governance Policies and Ethics Code**
- 1.4 Accountability to Shareowners**
- 1.5 Shareowner Participation**
- 1.6 Business Practices and Corporate Citizenship**
- 1.7 Governance Practices at Public and Private Companies**
- 1.8 Reincorporation**

²⁸ Updated and approved by CII General Membership in September, 2007.

- 1.1 Nature and Purpose of the Council's Corporate Governance Policies:** Council policies neither bind members nor corporations. They are designed to provide guidelines that the Council has found to be appropriate in most situations.
- 1.2 Federal and State Law Compliance:** The Council expects that corporations will comply with all applicable federal and state laws and regulations and stock exchange listing standards.
- 1.3 Disclosed Governance Policies and Ethics Code:** The Council believes every company should have written disclosed governance procedures and policies, an ethics code that applies to all employees and directors, and provisions for its strict enforcement. The Council posts its corporate governance policies on its web site (www.cii.org); it hopes corporate boards will meet or exceed these standards and adopt similarly appropriate additional policies to best protect shareowners' ²⁹ interests.
- 1.4 Accountability to Shareowners:** In general, the Council believes that corporate governance structures and practices should protect and enhance accountability to, and ensure equal financial treatment of, shareowners. An action should not be taken if its purpose is to reduce accountability to shareowners.
- 1.5 Shareowner Participation:** The Council believes shareowners should have meaningful ability to participate in the major fundamental decisions that affect corporate viability, and meaningful opportunities to suggest or nominate director candidates and to suggest processes and criteria for director selection and evaluation.
- 1.6 Business Practices and Corporate Citizenship:** The Council believes companies should adhere to responsible business practices and practice good corporate citizenship. Promotion, adoption and effective implementation of guidelines for the responsible conduct of business and business relationships are consistent with the fiduciary responsibility of protecting long-term investment interests.
- 1.7 Governance Practices at Public and Private Companies:** The Council believes good governance practices should be followed by publicly traded companies, private companies and companies in the process of going public. As such, the Council believes that, consistent with their fiduciary obligations to their limited partners, the general members of venture capital, buyout and other private equity funds should use appropriate efforts to encourage companies in which they invest to adopt long-term corporate governance provisions that are consistent with the Council's policies.
- 1.8 Reincorporation:** The Council believes that U.S. companies should not reincorporate offshore because corporate governance structures there are weaker and therefore reduce management accountability to shareowners.

2. The Board of Directors

- 2.1 Annual Election of Directors**
- 2.2 Director Elections**
- 2.3 Independent Board**
- 2.4 All-independent Board Committees**
- 2.5 Board Accountability to Shareowners**

²⁹ At the February 2006 meeting of the Council's Policies Committee, it was decided that Council policies should use the term "shareowner" instead of "shareholder," reflecting the Council's belief that the former term is a better descriptor.

- 2.6 **Board/Director Evaluation**
- 2.7 **“Continuing Directors”**
- 2.8 **Board Size and Service**
- 2.9 **Board Operations**
- 2.10 **Auditor Independence**
- 2.11 **Charitable and Political Contributions**

- 2.1 **Annual Election of Directors:** All directors should be elected annually (no classified boards).
- 2.2 **Director Elections:** When permissible under state law, companies’ charters and by-laws should provide that directors in uncontested elections are to be elected by a majority of the votes cast. In contested elections, plurality voting should apply. An election is contested when there are more director candidates than there are available board seats. Boards should adopt policies asking that directors tender their resignations if they fail to win majority support in uncontested elections, and providing that such directors will not be renominated after expiration of their current term in the event they fail to tender such resignation.
- 2.3 **Independent Board:** At least two-thirds of the directors should be independent (i.e., their only non-trivial professional, familial or financial connection to the corporation, its chairman, CEO or any other executive officer is their directorship). The company should disclose information necessary for shareowners to determine whether directors qualify as independent, whether or not the disclosure is required by state or federal law. This information should include all financial or business relationships with and payments to directors and their families and all significant payments to companies, non-profits, foundations and other organizations where company directors serve as employees, officers or directors. (See Council definition of independent director.)
- 2.4 **All-independent Board Committees:** Companies should have audit, nominating and compensation committees, and all members of these committees should be independent. The board (not the CEO) should appoint the committee chairs and members. Committees should be able to select their own service providers. Some regularly scheduled committee meetings should be held with only the committee members (and, if appropriate, the committee’s independent consultants) present. The process by which committee members and chairs are selected should be disclosed to shareowners.
- 2.5 **Board Accountability to Shareowners**
 - 2.5.1 **Majority Shareowner Votes:** Boards should take actions recommended in shareowner proposals that receive a majority of votes cast for and against. If shareowner approval is required for the action, the board should submit the proposal to a binding vote at the next shareowner meeting.
 - 2.5.2 **Interaction with Shareowners:** Directors should respond to communications from shareowners and should seek shareowner views on important governance, management and performance matters. All directors should attend the annual shareowners’ meeting and be available, when requested by the chair, to answer shareowner questions.
 - 2.5.3 **Shareowner-director Communication, Interaction & Meeting Conduct:** Directors should respond to communications from shareowners and should seek shareowner views on important governance, management and

performance matters. To accomplish this goal, all companies should establish a mechanism by which shareowners with non-trivial concerns could communicate directly with all directors, including independent directors. Policies requiring that all director communication go through a member of the management team should be avoided unless they are for record-keeping purposes. In such cases, procedures documenting receipt, delivery to the board and response must be maintained and made available upon request to shareowners.

During the annual general meeting, shareowners should have the right to ask questions, both orally and in writing, and expect answers and discussion where appropriate from the board of directors. Such discussion should take place regardless whether those questions have been submitted in advance. All directors should attend the annual shareowners' meetings and be available, when requested by the chair, to answer shareowner questions. While reasonable time limits to questions asked might be acceptable, the board should not ignore or skip hearing questions because a shareowner has a smaller number of shares or has not held those shares for a certain amount of time.

2.5.4 Independent Chair/Lead Director: The board should be chaired by an independent director. The CEO and chair roles should only be combined in very limited circumstances; in these situations, the board should provide a written statement in the proxy materials discussing why the combined role is in the best interests of shareowners, and it should name a lead independent director who should have approval over information flow to the board, meeting agendas, and meeting schedules to ensure a structure that provides an appropriate balance between the powers of the CEO and those of the independent directors.

Other roles of the lead independent director should include chairing meetings of non-management directors and of independent directors, presiding over board meetings in the absence of the chair, serving as the principle liaison between the independent directors and the chair, and leading the board/director evaluation process. Given these additional responsibilities, the lead independent director should expect to devote a greater amount of time to board service than the other directors.

2.6 Board/Director Evaluation

2.6.1 Nature of Evaluation: Boards should evaluate themselves and their individual members on a regular basis. Board evaluation should include an assessment of whether the board has the necessary diversity of skills, backgrounds, experiences, ages, races and genders appropriate to the company's ongoing needs. Individual director evaluations should include high standards for in-person attendance at board and committee meetings and disclosure of all absences or conference call substitutions.

2.6.2 Evaluation of Directors From Whom at Least 10 Percent of the Votes Cast are Withheld: Boards should review the performance and qualifications of any director from whom at least 10 percent of the votes cast are withheld.

2.6.3 Board and Committee Meeting Attendance: Absent compelling and stated reasons, directors who attend fewer than 75 percent of board and board-committee meetings for two consecutive years should not be renominated.

Companies should disclose individual director attendance figures for board and committee meetings. Disclosure should distinguish between in-person and telephonic attendance. Excused absences should not be categorized as attendance.

2.7 “Continuing Directors”: Corporations should not adopt so-called “continuing director” provisions (also known as “dead-hand” poison pills) that allow former directors who have left office to take action on behalf of the corporation.

2.8 Board Size and Service: Absent compelling, unusual circumstances, a board should have no fewer than 5 and no more than 15 members (not too small to maintain the needed expertise and independence, and not too large to be efficiently functional). Shareowners should be allowed to vote on any major change in board size.

Companies should establish and publish guidelines specifying on how many other boards their directors may serve. Absent unusual, specified circumstances, directors with full-time jobs should not serve on more than two other boards. Currently serving CEOs should only serve as a director of one other company, and then only if the CEO's own company is in the top half of its peer group. No person should serve on more than five for-profit company boards.

2.9 Board Operations

2.9.1 Informed Directors: Directors should receive training from independent sources on their fiduciary responsibilities and liabilities. Directors have an affirmative obligation to become and remain independently familiar with company operations; they should not rely exclusively on information provided to them by the CEO to do their jobs. Directors should be provided meaningful information in a timely manner prior to board meetings, and should be allowed reasonable access to management to discuss board issues.

2.9.2 Director Rights Regarding Board Agendas: Directors should be allowed to place items on board agendas.

2.9.3 Executive Sessions: Non-management directors should hold regularly scheduled executive sessions without the CEO or staff present. The independent directors should also hold regularly scheduled in-person executive sessions without non-independent directors and staff present.

2.9.4 CEO Succession Planning: The board should approve and maintain a CEO succession plan.

2.10 Auditor Independence

2.10.1 Audit Committee Responsibilities Regarding Outside Auditors: As prescribed by law, the audit committee has the responsibility to hire, oversee and, if necessary, fire the company's outside auditor.

2.10.2 Competitive Bids: The audit committee should seek competitive bids for the external audit engagement no less frequently than every five years.

2.10.3 Non-audit Services: The company's external auditor should not perform any non-audit services for the company, except those required by statute or

regulation to be performed by a company's external auditor, such as attest services.

2.10.4 Audit Committee Charters: The proxy statement should include a copy of the audit committee charter and a statement by the audit committee that it has complied with the duties outlined in the charter.

2.10.5 Liability of Outside Auditors: Companies should not agree to limit the liability of outside auditors.

2.10.6 Shareowner Votes on Board's Choice of Outside Auditor: Audit committee charters should provide for annual shareowner votes on the board's choice of independent, external auditor. Such provisions ought to state that if the board's selection fails to achieve the support of a majority of the for-and-against votes cast, the audit committee should: (1) take the shareowners' views into consideration and reconsider its choice of auditor; and (2) solicit the views of major shareowners in order to determine why broad levels of shareowner support were not achieved.

2.10.7 Disclosure of Reasons Behind Auditor Changes: The audit committee should publicly provide to shareowners a plain-English explanation of the reasons for a change in the company's external auditors. At a minimum, this disclosure should be contained in the same Securities and Exchange Commission filing that companies are required to submit within four days of an auditor change.

2.11 Charitable and Political Contributions

2.11.1 Board Monitoring, Assessment and Approval: The board of directors should monitor, assess and approve all charitable and political contributions (including trade association contributions) made by the company. The board should ensure that only contributions consistent with and aligned to the interests of the company and its shareowners are approved. The terms and conditions of such contributions should be clearly defined and approved by the board.

2.11.2 Disclosure: The board's guidelines for contribution approval should be publicly disclosed as a corporate contributions policy. The board should disclose on an annual basis the amounts and recipients of all monetary and non-monetary contributions made by the company during the prior fiscal year. If any expenditures earmarked for political or charitable activities were provided to or through a third-party, then those expenditures should be included in the report.

3. Shareowner Voting Rights

3.1 Shareowners' Right to Vote is Inviolable

3.2 Access to the Proxy

3.3 One Share, One Vote

3.4 Confidential Voting

3.5 Voting Requirements

3.6 Broker Votes

3.7 Bundled Voting

- 3.1 Shareowners' Right to Vote is Inviolable:** The shareowners' right to vote is inviolate and should not be abridged.
- 3.2 Access to the Proxy:** Companies should provide access to management proxy materials for a long-term investor or group of long-term investors owning in aggregate at least 5 percent of a company's voting stock to nominate less than a majority of the directors. Eligible investors must have owned the stock for at least three years. Company proxy materials and related mailings should provide equal space and equal treatment of nominations by qualifying investors.
- 3.3 One Share, One Vote:** Each share of common stock should have one vote. Corporations should not have classes of common stock with disparate voting rights. Authorized unissued common shares that have voting rights to be set by the board should not be issued with unequal voting rights without shareowner approval.
- 3.4 Confidential Voting:** All proxy votes should be confidential, with ballots counted by independent tabulators. Confidentiality should be automatic and permanent and apply to all ballot items. Rules and practices concerning the casting, counting and verifying of shareowner votes should be clearly disclosed.
- 3.5 Voting Requirements:** A majority vote of common shares outstanding should be sufficient to amend company bylaws or take other action requiring or receiving a shareowner vote. Supermajority votes should not be required. A majority vote of common shares outstanding should be required to approve:
- Major corporate decisions concerning the sale or pledge of corporate assets that would have a material effect on shareowner value. Such a transaction will automatically be deemed to have a material effect if the value of the assets exceeds 10 percent of the assets of the company and its subsidiaries on a consolidated basis;
 - The corporation's acquiring 5 percent or more of its common shares at above-market prices other than by tender offer to all shareowners;
 - Poison pills;
 - Abridging or limiting the rights of common shares to: (1) vote on the election or removal of directors or the timing or length of their term of office; or (2) make nominations for directors or propose other action to be voted on by shareowners; or (3) call special meetings of shareowners or take action by written consent or affect the procedure for fixing the record date for such action; and
 - Provisions resulting in the issuance of debt to a degree that would excessively leverage the company and imperil the long-term viability of the corporation.
- 3.6 Broker Votes:** Broker non-votes and abstentions should be counted only for purposes of a quorum.
- 3.7 Bundled Voting:** Shareowners should be allowed to vote on unrelated issues separately. Individual voting issues, particularly those amending a company's charter, bylaws or anti-takeover provisions, should not be bundled.

4. Shareowner Meetings

- 4.1 Selection and Notification of Meeting Time and Location**
- 4.2 Record Date and Ballot Item Disclosure**
- 4.3 Election Polls**
- 4.4 Meeting Adjournment and Extension**
- 4.5 Electronic Meetings**
- 4.6 Director Attendance**

- 4.1 Selection and Notification of Meeting Time and Location:** Corporations should make shareowners' expense and convenience primary criteria when selecting the time and location of shareowner meetings. Appropriate notice of shareowner meetings, including notice concerning any change in meeting date, time, place or shareowner action, should be given to shareowners in a manner and within time frames that will ensure that shareowners have a reasonable opportunity to exercise their franchise.
- 4.2 Record Date and Ballot Item Disclosure:** To promote the ability of shareowners to make informed decisions regarding whether to recall loaned shares: (1) shareowner meeting record dates should be disclosed as far in advance of the record date as possible; and (2) proxy statements should be disclosed before the record date passes whenever possible.
- 4.3 Election Polls:** Polls should remain open at shareowner meetings until all agenda items have been discussed and shareowners have had an opportunity to ask and receive answers to questions concerning them.
- 4.4 Meeting Adjournment and Extension:** Companies should not adjourn a meeting for the purpose of soliciting more votes to enable management to prevail on a voting item. Extending a meeting should only be done for compelling reasons such as vote fraud, problems with the voting process or lack of a quorum.
- 4.5 Electronic Meetings:** Companies should hold shareowner meetings by remote communication (so-called electronic or "cyber" meetings) only as a supplement to traditional in-person shareowner meetings, not as a substitute.
- 4.6 Director Attendance:** As noted in Section 2, "The Board of Directors," all directors should attend the annual shareowners' meeting and be available, when requested by the chair, to respond directly to oral or written questions from shareowners.

5. Executive Compensation

- 5.1 Introduction**
- 5.2 Advisory Shareowner Votes on Executive Pay**
- 5.3 Role of Compensation Committee**
- 5.4 Salary**
- 5.5 Annual Incentive Compensation**
- 5.6 Long-term Incentive Compensation**
- 5.7 Dilution**
- 5.8 Stock Option Awards**
- 5.9 Stock Awards/Units**
- 5.10 Perquisites**
- 5.11 Employment Contracts, Severance and Change-of-control Payments**
- 5.12 Retirement Arrangements**
- 5.13 Stock Ownership**

- 5.1 Introduction:** The Council believes that executive compensation is a critical and visible aspect of a company's governance. Pay decisions are one of the most direct ways for shareowners to assess the performance of the board. And they have a bottom line effect, not just in terms of dollar amounts, but also by formalizing performance goals for employees, signaling the market and affecting employee morale.

The Council endorses reasonable, appropriately structured pay-for-performance programs that reward executives for sustainable, superior performance over the "long-term," consistent with a company's investment horizon and generally considered to be five or more years for mature companies and at least three years for other companies. While the Council believes that executives should be well paid for superior performance, it also believes that executives should not be excessively paid. It is the job of the board of directors and the compensation committee to ensure that executive compensation programs are effective, reasonable and rational with respect to critical factors such as company performance, industry considerations and compensation paid to other employees inside the company.

It is also the job of the compensation committee to ensure that elements of compensation packages are appropriately structured to enhance the company's short- and long-term strategic goals and to retain and motivate executives to achieve those strategic goals. Compensation programs should not be driven by competitive surveys, which have become excessive and subject to abuse. They should recognize that it is shareowners, not executives, whose money is at risk.

Since executive compensation must be tailored to meet unique company needs and situations, compensation programs must always be structured on a company-by-company basis. However, the Council believes that certain principles apply to all companies.

- 5.2 Advisory Shareowner Votes on Executive Pay:** All companies should provide annually for advisory shareowner votes on the compensation of senior executives.
- 5.3 Role of Compensation Committee:** The compensation committee is responsible for structuring executive pay, evaluating executive performance within the context of the pay structure of the entire company, subject to approval of the board of directors. To best handle this role, the Council believes that compensation committees should adopt the following principles and practices:
- 5.3a Committee Composition:** All members of the compensation committee should be independent. Committee membership should rotate periodically among the board's independent directors. Members should be or take responsibility to become knowledgeable about compensation and related issues. They should exercise due diligence and independent judgment in carrying out their committee responsibilities. They should represent diverse backgrounds and professional experiences.
- 5.3b Executive Pay Philosophy:** The compensation philosophy should be clearly disclosed to shareowners in annual proxy statements. In developing, approving and monitoring the executive pay philosophy, the compensation committee should consider the full range of pay components, including structure of programs, desired mix of cash and equity awards, goals for distribution of awards throughout the company, how executive pay relates to

the pay of other employees, use of employment contracts, and policy regarding dilution.

- 5.3c Oversight:** The compensation committee should vigorously oversee all aspects of executive compensation for a group composed of the CEO and other highly paid executives, as required by law, and any other highly paid employees, including executives of subsidiaries, special purpose entities and other affiliates, as determined by the compensation committee. The committee should ensure that the structure of employee compensation throughout the company is fair, non-discriminatory and forward-looking, and that it motivates, recruits and retains a workforce capable of meeting the company's strategic objectives. To perform its oversight duties, the committee should approve, comply with and fully disclose a charter detailing its responsibilities.
- 5.3d Pay for Performance:** Compensation of the executive oversight group should be driven predominantly by performance. The compensation committee should establish performance measures for executive compensation that are agreed to ahead of time and publicly disclosed. Performance measures applicable to all performance-based awards (including annual and long-term incentive compensation) should reward superior performance—based predominantly on total stock return measures and key operational measures—at minimum reasonable cost and should reflect downside risk.
- 5.3e Annual Approval and Review:** Each year, the compensation committee should review performance of individuals in the oversight group and approve any bonus, severance, equity-based award or extraordinary payment made to them. The committee should understand all components of executive compensation and annually review total compensation potentially payable to the oversight group under all possible scenarios, including death/disability, retirement, voluntary termination, termination with and without cause and changes of control. The committee should also ensure that the structure of pay at different levels (CEO and others in the oversight group, other executives and non-executive employees) is fair and appropriate in the context of broader company policies and goals and fully justified and explained.
- 5.3f Committee Accountability:** In addition to attending all annual and special shareholder meetings, committee members should be available to respond directly to questions about executive compensation; the chair of the committee should take the lead. In addition, the committee should regularly report on its activities to the independent directors of the board, who should review and ratify committee decisions. Committee members should take an active role in preparing the compensation committee report contained in the annual proxy materials, and be responsible for the contents of that report.
- 5.3g Outside Advice:** The compensation committee should retain and fire outside experts, including consultants, legal advisers and any other advisers when it deems appropriate, including when negotiating contracts with executives. Individual compensation advisers and their firms should be independent of the client company, its executives and directors and should report solely to the compensation committee. The compensation committee should develop and disclose a formal policy on compensation adviser independence. In addition, the committee should annually disclose an assessment of its advisers' independence, along with a description of the nature and dollar amounts of services commissioned from the advisers and their firms by the client

company's management. Companies should not agree to indemnify or limit the liability of compensation advisers or the advisers' firms.

- 5.3h Clawbacks:** The compensation committee should develop and disclose a policy for recapturing unearned bonus and incentive payments that were awarded to senior executives due to fraudulent activity, incorrectly stated financial results, or some other cause. At a minimum, the policy should apply to Named Executive Officers, and boards should require repayment in the event of malfeasance involving the executive.
- 5.3i Disclosure Practices:** The compensation committee is responsible for ensuring that all aspects of executive compensation are clearly, comprehensively and promptly disclosed, in plain English, in the annual proxy statement regardless of whether such disclosure is required by current rules and regulations. The compensation committee should disclose all information necessary for shareowners to understand how and how much executives are paid and how such pay fits within the overall pay structure of the company. It should provide annual proxy statement disclosure of the committee's compensation decisions with respect to salary, short-term incentive compensation, long-term incentive compensation and all other aspects of executive compensation, including the relative weights assigned to each component of total compensation. Other recommended disclosures relevant to specific elements of executive compensation are detailed below.
- 5.3j Benchmarking:** Benchmarking at median or higher levels is a primary contributor to escalating executive compensation. Although benchmarking can be a constructive tool for formulating executive compensation packages, it should not be relied on exclusively. If benchmarking is used, compensation committees should commit to annual disclosure of the companies in peer groups used for benchmarking and/or other comparisons. If the peer group used for compensation purposes is different from that used to compare overall performance, such as the five-year stock return graph required in the annual proxy materials, the compensation committee should describe the differences between the groups and the rationale for choosing between them. In addition to disclosing names of companies used for benchmarking and comparisons, the compensation committee should disclose targets for each compensation element relative to the peer/benchmarking group and year-to-year changes in companies composing peer/benchmark groups.

5.4 Salary

- 5.4a Salary Level:** Since salary is one of the few components of executive compensation that is not "at risk," it should be set at a level that yields the highest value for the company at least cost. In general, salary should be set to reflect responsibilities, tenure and past performance, and to be tax efficient—meaning no more than \$1 million.
- 5.4b Above-median Salary:** The compensation committee should publicly disclose its rationale for paying salaries above the median of the peer group.

- 5.5 Annual Incentive Compensation:** Cash incentive compensation plans should be structured to appropriately align executive interests with company goals and objectives and to reasonably reward superior performance that meets or exceeds well-defined

and clearly disclosed performance targets that reinforce long-term strategic goals set and approved by the board and written down in advance of the performance cycle.

5.5a Formula Plans: The compensation committee should approve formulaic bonus plans containing specific qualitative and quantitative performance-based operational measures designed to reward executives for superior performance related to operational/strategic/other goals set by the board. Such awards should be capped at a reasonable maximum level. These caps should not be calculated as percentages of accounting or other financial measures (such as revenue, operating income or net profit), since these figures may change dramatically due to mergers, acquisitions and other non-performance-related strategic or accounting decisions.

5.5b Targets: When setting performance goals for “target” bonuses, the compensation committee should set performance levels below which no bonuses would be paid and above which bonuses would be capped.

5.5c Changing Targets: Except in unusual and extraordinary situations, the compensation committee should not “lower the bar” by changing performance targets in the middle of bonus cycles. If performance targets must be lowered, amended or changed in the middle of a performance cycle, reasons for the change and details of the initial targets and adjusted targets should be disclosed.

5.5d Transparency: The compensation committee should commit to provide full descriptions of the qualitative and quantitative performance measures and benchmarks used to determine annual incentive compensation, including the weightings of each measure. At the beginning of a period, the compensation committee should calculate and disclose the maximum compensation payable if all performance-related targets are met. At the end of the performance cycle, the compensation committee should disclose actual targets and details on the determination of final payouts.

5.5e Shareowner Approval: Shareowners should approve the establishment of, any material amendments to, annual incentive compensation plans covering the oversight group.

5.6 Long-term Incentive Compensation: Well-designed compensation programs can lead to superior performance. Long-term incentive compensation, generally in the form of equity-based awards, can be structured to achieve a variety of long-term objectives, including retaining executives, aligning executives’ financial interests with the interests of shareowners, and rewarding the achievement of long-term specified strategic goals of the company and/or the superior performance of company stock.

But long-term incentive compensation comes at a cost, and poorly structured awards permit excessive or abusive pay that is detrimental to the company and to shareowners. To maximize effectiveness and efficiency, compensation committees should carefully evaluate the costs and benefits of long-term incentive compensation, ensure that long-term compensation is appropriately structured and consider whether performance and incentive objectives would be enhanced if awards were distributed throughout the company, not simply to top executives.

Companies may rely on a myriad of long-term incentive vehicles—including, but not limited to, performance-based restricted stock/units, phantom shares, stock units and

stock options—to achieve a variety of long-term objectives. While the technical underpinnings of long-term incentive awards may differ, the Council believes that the following principles and practices apply to all long-term incentive compensation awards. And, as detailed below, certain policies are relevant to specific types of long-term incentive awards.

- 5.6a Size of Awards:** Compensation committees should set appropriate limits on the size of long-term incentive awards granted to executives. So-called “mega-awards” or outsized awards should be avoided except in extraordinary circumstances, because they may result in rewards that are disproportionate to performance.
- 5.6b Vesting Requirements:** Meaningful performance periods and/or cliff vesting requirements—consistent with a company’s investment horizon, but no less than three years—should attach to all long-term incentive awards, followed by pro rata vesting over at least two subsequent years for senior executives.
- 5.6c Grant Timing:** Except in extraordinary circumstances, such as a permanent change in performance cycles, long-term incentive awards should be granted at the same time each year. Companies should not coordinate stock award grants with the release of material non-public information. The grants should occur whether recently publicized information is positive or negative, and stock options should never be backdated.
- 5.6d Hedging:** Compensation committees should prohibit executives and directors from hedging (by buying puts and selling calls or employing other risk-minimizing techniques) equity-based awards granted as long-term incentive compensation or other stock holdings in the company. And, they should strongly discourage other employees from hedging their holdings in company stock.
- 5.6e Philosophy/Strategy:** Compensation committees should have a well-articulated philosophy and strategy for long-term incentive compensation, which should be fully and clearly disclosed in the annual proxy statement.
- 5.6f Award Specifics:** Compensation committees should disclose the size, distribution, vesting requirements, other performance criteria and grant timing of each type of long-term incentive award granted to the executive oversight group and how each component contributes to long-term performance objectives of a company.
- 5.6g Ownership Targets:** Compensation committees should disclose whether and how long-term incentive compensation may be used to satisfy meaningful stock ownership requirements. Disclosure should include whether compensation committees impose post-exercise holding periods or other requirements to ensure that long-term incentive compensation is appropriately used to meet ownership targets.
- 5.6h Shareowner Approval:** Shareowners should approve all long-term incentive plans, including equity-based plans, any material amendments to existing plans or any amendments of outstanding awards to shorten vesting requirements, reduce performance targets or otherwise change outstanding long-term incentive awards to benefit executives. Plans should have expiration dates and not be structured as “evergreen,” rolling plans.

- 5.7 Dilution:** Dilution measures how much the additional issuance of stock may reduce existing shareowners' stake in a company. Dilution is particularly relevant for long-term incentive compensation plans since these programs essentially issue stock at below-market prices to the recipients. The potential dilution represented by long-term incentive compensation plans is a direct cost to shareowners.

Dilution from long-term incentive compensation plans may be evaluated using a variety of techniques including, but not limited to, the reduction in earnings per share and voting power resulting from the increase in outstanding shares.

- 5.7a Philosophy/Strategy:** Compensation committees should develop and disclose the philosophy regarding dilution including definition(s) of dilution, peer group comparisons and specific targets for annual awards and total potential dilution represented by equity compensation programs for the current year and expected for the subsequent four years.
- 5.7b Stock Repurchase Programs:** Stock buyback decisions are a capital allocation decision and should not be driven solely for the purpose of minimizing dilution from equity-based compensation plans. The compensation committee should provide information about stock repurchase programs and the extent to which such programs are used to minimize the dilution of equity-based compensation plans.
- 5.7c Tabular Disclosure:** The annual proxy statement should include a table detailing the overhang represented by unexercised options and shares available for award and a discussion of the impact of the awards on earnings per share.
- 5.8 Stock Option Awards:** Stock options give holders the right, but not the obligation, to buy stock in the future. Options may be structured in a variety of ways. The Council considers some structures and policies preferable because they more effectively ensure that executives are compensated for superior performance. Other structures and policies are inappropriate and should be prohibited.
- 5.8a Performance Options:** Stock option prices should be indexed to peer groups, performance-vesting and/or premium-priced to reward superior performance based on the attainment of challenging quantitative goals.
- 5.8b Dividend Equivalents:** To ensure that executives are neutral between dividends and stock price appreciation, dividend equivalents should be granted with stock options, but distributed only upon exercise of the option.
- 5.8c Stock Option Expensing:** Since stock options have a cost, companies should include these costs as an expense on their reported income statements and disclose valuation assumptions.
- 5.8d Discount Options:** No discount options should be awarded.
- 5.8e Reload Options:** Reload options should be prohibited.
- 5.8f Option Repricing:** "Underwater" options should not be repriced or replaced (either with new options or other equity awards), unless approved by shareowners. Repricing programs, for shareowner approval, should exclude

directors and executives, restart vesting periods and mandate value-for-value exchanges in which options are exchanged for a number of equivalently valued options/shares.

5.9 Stock Awards/Units: Stock awards/units and similar equity-based vehicles generally grant holders stock based on the attainment of performance goals and/or tenure requirements. These types of awards are more expensive to the company than options, since holders generally are not required to pay to receive the underlying stock, and therefore should be limited in size.

5.9a Structure: Stock awards should be linked to the attainment of specified performance goals and in some cases to additional time-vesting requirements. Stock awards should not be payable based solely on the attainment of tenure requirements.

5.9b Transparency: The compensation committee should provide full descriptions of the qualitative/quantitative performance measures and benchmarks used and the weightings of each component. Whenever possible, disclosure should include details of performance targets.

5.10 Perquisites: Company perquisites blur the line between personal and business expenses. The Council believes that executives, not companies, should be responsible for paying personal expenses—particularly those that average employees routinely shoulder, such as family and personal travel, financial planning, club memberships and other dues. The compensation committee should ensure that any perquisites are warranted and have a legitimate business purpose, and it should consider capping all perquisites at a de minimis level. Total perquisites should be described, disclosed and valued.

5.11 Employment Contracts, Severance and Change-of-control Payments: Various arrangements may be negotiated to outline terms and conditions for employment and to provide special payments following certain events, such as a termination of employment with/without cause and/or a change in control. The Council believes that these arrangements should be used on a limited basis.

5.11a Employment Contracts: Companies should only provide employment contracts to executives in limited circumstances, such as to provide modest, short-term employment security to a newly hired or recently promoted executive. Such contracts should have a specified termination date (not to exceed three years); contracts should not be “rolling” on an open-ended basis.

5.11b Severance Payments: Executives should be entitled to severance payments in non-control change situations only in the event of wrongful termination, death or disability. Termination for poor performance, resignation under pressure or failure to renew the contract should not qualify as wrongful termination.

5.11c Change-in-control Payments: Any provisions providing for compensation following a change-in-control event should be “double-triggered,” stipulating that compensation is payable only: (1) after a control change actually takes place; and (2) if a covered executive's job is terminated because of the control change.

- 5.11d Gross-ups:** Companies should not compensate executives for any excise or additional taxes payable upon the receipt of severance, change-in-control or similar payments.
- 5.11e Transparency:** The compensation committee should fully and clearly describe the terms and conditions of employment contracts and any other agreements/arrangements covering the executive oversight group and reasons why the compensation committee believes the agreements are in the best interests of shareowners.
- 5.11f Tabular Disclosure:** The compensation committee should provide tabular disclosure of the dollar value payable, including gross-ups and all related taxes payable by the company, to each member of the executive oversight group under each scenario covered by the contracts/agreements/arrangements, including change-in-control, death/disability, termination with/without cause and resignation.
- 5.11g Timely Disclosure:** New executive employment contracts or amendments to existing contracts should be immediately disclosed in 8-K filings and promptly disclosed in subsequent 10-Qs.
- 5.11h Shareowner Ratification:** Shareowners should ratify all employment contracts, side letters or other agreements providing for severance, change-in-control or other special payments to executives exceeding 2.99 times average annual salary plus annual bonus for the previous three years.
- 5.12 Retirement Arrangements:** Deferred compensation plans, supplemental executive retirement plans, retirement packages and other retirement arrangements for highly paid executives can result in hidden and excessive benefits. The Council believes that special retirement arrangements, including ones structured to permit employees whose compensation exceeds IRS limits to fully participate in similar plans covering other employees, should be consistent with programs offered to the general workforce, and they should be reasonable.
- 5.12a Supplemental Executive Retirement Plans (SERPs):** Supplemental plans should be an extension of the retirement program covering other employees. They should not include special provisions, such as above-market interest rates and excess service credits, not offered under plans covering other employees. Payments such as stock and stock options, annual/long-term bonuses and other compensation not awarded to other employees and/or not considered in the determination of retirement benefits payable to other employees should not be considered in calculating benefits payable under SERPs.
- 5.12b Deferred Compensation Plans:** Investment alternatives offered under deferred compensation plans for executives should mirror those offered to employees in broad-based deferral plans. Above-market returns should not be applied to executive deferrals, and executives should not receive “sweeteners” for deferring cash payments into company stock.
- 5.12c Post-retirement Exercise Periods:** Executives should be limited to three-year post-retirement exercise periods for stock option grants.

- 5.12d Retirement Benefits:** Executives should not be entitled to special perquisites—such as apartments, automobiles, use of corporate aircraft, security, financial planning—and other benefits upon retirement. Executives are highly compensated employees who should be more than able to cover the costs of their retirements.
- 5.12e Transparency:** The terms of any deferred compensation, retirement, SERP or other similar plans covering the executive oversight group should be fully disclosed, in plain English, along with a description of any additional perquisites or benefits payable to executives after retirement.
- 5.12f Tabular Disclosure:** A single table should be provided detailing the expected dollar value payable to each member of the executive oversight group under any deferred compensation, retirement, SERP or similar plan, along with a dollar value of any additional perquisites or benefits payable after retirement.

5.13 Stock Ownership

- 5.13a Ownership Requirements:** Executives and directors should own, after a reasonable period of time, a meaningful position in the company's common stock. Executives should be required to own stock—excluding unexercised options and unvested stock awards—equal to a multiple of salary, scaled based on position, such as two times salary for lower-level executives and up to six times salary for the CEO.
- 5.13b Stock Sales:** Executives should be required to sell stock through pre-announced program sales or by providing a minimum 30-day advance notice of any stock sales.
- 5.13c Post-retirement Holdings:** Executives should be required to continue to satisfy the minimum stock holding requirements for at least six months after leaving the company.
- 5.13d Transparency:** Companies should disclose stock ownership requirements and whether any members of the executive oversight group are not in compliance.

6. Director Compensation

- 6.1 Introduction**
- 6.2 Role of the Compensation Committee in Director Compensation**
- 6.3 Retainer**
- 6.4 Equity-based Compensation**
- 6.5 Performance-based Compensation**
- 6.6 Perquisites**
- 6.7 Repricing and Exchange Programs**
- 6.8 Employment Contracts, Severance and Change-of-control Payments**
- 6.9 Retirement Arrangements**
- 6.10 Disgorgement**

- 6.1 Introduction:** Given the vital importance of the responsibilities assigned to directors, the Council expects that non-employee directors will devote significant time to their boardroom duties.

The Council believes that policy issues related to director compensation are fundamentally different from executive compensation. The Council is supportive of director compensation policies that accomplish the following goals: (1) attract highly qualified candidates; (2) retain highly qualified directors; (3) align directors' interests with those of the long-term owners of the corporation; and (4) provide complete disclosure to shareowners regarding all components of director compensation including the philosophy behind the program and all forms of compensation.

To accomplish these goals, director compensation should consist solely of a combination of cash retainer and equity-based compensation. The cornerstone of director compensation programs should be alignment of interests through the attainment of significant equity holdings in the company meaningful to each individual director. The Council believes that equity obtained with an individual's own capital provides the best alignment of interests with other shareowners. However, compensation plans can provide supplemental means of obtaining long-term equity holdings through equity compensation, long-term holding requirements and ownership requirements.

The Council believes that companies should have flexibility within certain broad policy parameters to design and implement director compensation plans that suit their unique circumstances. To support this flexibility, investors must have complete and clear disclosure of both the philosophy behind the compensation plan as well as the actual compensation awarded under the plan. Without full disclosure, it is increasingly difficult to earn investors' confidence and support for compensation plans, including both director and executive plans.

Although non-employee director compensation is generally immaterial to a company's bottom line and small relative to executive pay, the Council believes that director compensation is an important piece of a company's governance. Because director pay is set by the board and has inherent conflicts of interest, care must be taken to ensure there is no appearance of impropriety. Companies should pay particular attention to managing these conflicts.

6.2 Role of the Compensation Committee in Director Compensation: The compensation committee (or alternative committee comprised solely of independent directors) is responsible for structuring director pay, subject to approval of all the independent directors, so that it is aligned with the long-term interests of shareowners. The unique fact that directors are setting their own compensation necessitates additional emphasis on the following practices:

6.2a Total Compensation Review: The compensation committee should understand and value each component of director compensation and annually review total compensation potentially payable to each director.

6.2b Outside Advice: The Council believes that committees should have the ability to utilize a compensation consultant for assistance on director compensation plans. In cases where the compensation committee does utilize a consultant, it should always retain an independent compensation consultant or any other advisors as deemed appropriate to assist with the evaluation of the structure and value of director compensation. A summary of the pay consultant's advice should be provided in the annual proxy statement in plain English. The compensation committee should disclose all instances where the consultant is also retained (by the committee) to provide advice on executive compensation. In no circumstances should the committee utilize a consultant for director

compensation or executive compensation who is also retained by management.

6.2c Tabular Disclosure: Annual proxy statement disclosure should include a table with columns valuing each component of compensation paid to each director during the previous year. The table should also include a column estimating the total value, including the present value of equity awards, of each director's annual pay package and any other relevant information. The table should include the number of board meetings and committee meetings attended by the director.

6.2d Compensation Committee Report: The annual director compensation disclosure included in the proxy materials should include a discussion of the philosophy for director pay and the processes for setting director pay levels. Reasons for changes in director pay programs should be explained in plain English. Peer group(s) used to compare director pay packages should be fully disclosed, along with differences, if any, from the peer group(s) used for executive pay purposes. While the Council recognizes the value of peer analysis, we do not believe that peer-relative justification should dominate the rationale for (higher) pay levels. Rather, compensation programs should be appropriate for the circumstances of the company. The report should disclose how many committee meetings involved discussions of director pay.

6.3 Retainer

6.3a Amount of Annual Retainer: The annual retainer should be the sole form of cash compensation paid to non-employee directors. Ideally, it should reflect an amount appropriate for a director's expected duties, including attending meetings, preparing for meetings/discussions and performing due diligence on sites/operations (which should include routine communications with a broad group of employees.) The Council recognizes that in some combination, the retainer and the equity component combined also reflect the director's contribution from experience and leadership. Retainer amounts may be differentiated to recognize that certain non-employee directors, possibly including independent board chairs, independent lead directors, committee chairs or members of certain committees, are expected to spend more time on board duties than other directors.

6.3b Meeting Attendance Fees: The Council opposes meeting attendance fees—whether for board meetings or committee meetings—since meeting attendance is the most basic expectation of a non-employee director.

6.3c Director Attendance Policy: The board should have a clearly defined attendance policy. In cases where the committee utilizes any form of financial consequences (loss of a portion of the retainer or equity) as part of the director compensation program, this should be fully disclosed. Financial consequences for poor attendance, while perhaps appropriate in some circumstances, should not be considered in lieu of examining the attendance record, commitment (time spent on director duties) and contribution as integral criterion in director performance and re-nomination decisions.

6.4 Equity-based Compensation: The Council believes that equity-based compensation can be an important component of director compensation. These tools are perhaps best suited to accomplish optimal long-term perspective and alignment of interests with

shareowners. To accomplish this objective, the Council believes that director compensation should contain an ownership requirement or incentive and minimum holding period requirements.

- 6.4a Vesting of Equity-based Awards:** To complement the annual retainer and align director-shareowner interests, non-employee directors shall receive stock awards or stock-related awards such as phantom stock or share units. Equity-based compensation to non-employee directors should be fully vested on the grant date. This point is a marked difference to the Council's policy on executive compensation which calls for performance-based vesting of equity-based awards. While views on this topic have been mixed, the Council believes that the benefits of immediate vesting outweigh the complications. The obvious benefits stem from the immediate alignment of interests with shareowners and the maintenance of independence and objectivity for the director.
- 6.4b Ownership Requirements:** The Council suggests ownership requirements of at least three to five times annual compensation. However, the Council is sensitive to situations where qualified director candidates may not have financial means to obtain immediate ownership thresholds. For this reason, companies may adopt unique approaches to providing either a minimum threshold for ownership or incentive to build ownership. This concept should be an integral component of the committee's disclosure related to the philosophy of director pay. It is appropriate to provide a reasonable period of time for directors to meet ownership requirements or guidelines.
- 6.4c Holding Periods:** Separate from ownership requirements, the Council believes companies should adopt holding requirements for a significant majority of equity-based grants. These policies should require that directors retain a significant portion (such as 80% for example) of equity grants until after they are retired from the board. These policies should also prohibit the use of any transactions or arrangements that mitigate the risk or benefit of ownership to the director. The Council believes that these transactions and arrangements will inhibit the alignment of interests obtained from providing equity compensation and ownership requirements.
- 6.4d Mix of Cash and Equity-based Compensation:** The Council does not advocate a specific split between equity-based and cash compensation. Rather, we believe that companies should have the flexibility to set and adjust this ratio as may be appropriate for the circumstances. Accordingly, the rationale behind this decision is an important element of disclosures related to the overall philosophy of director compensation.
- 6.4e Transparency:** The present value of equity awards paid to each director during the previous year and the philosophy and process used in determining director pay should be fully disclosed in the proxy statement.
- 6.4f Shareowner Approval:** Current listing standards require shareowner approval of equity-based compensation plans and material amendments to plans (with limited exceptions). The Council strongly supports this concept and advocates that companies adopt conservative interpretations of approval requirements when confronted with choices. (For example, this may include material amendments to the plan).

- 6.5 Performance-based Compensation:** While the Council is a strong advocate of performance-based concepts in executive compensation, we do not support performance measures in director compensation. Performance-based compensation for directors has significant potential to conflict with the director's primary role as an independent representative of shareowners.
- 6.6 Perquisites:** Aside from meeting-related expenses such as air-fare, hotel accommodations and modest travel/accident insurance, the Council believes that directors should receive no other perquisites. Health, life and other forms of insurance, matching grants to charities, financial planning, automobile allowances and other similar perquisites cross the line as benefits offered to employees. The Council believes that charitable awards programs are an unnecessary benefit; directors interested in posthumous donations can do so on their own via estate planning. Infrequent token gifts of modest value are not considered perquisites.
- 6.7 Repricing and Exchange Programs:** The Council believes that under no circumstances should directors participate in or be eligible for repricing or exchange programs.
- 6.8 Employment Contracts, Severance and Change-of-control Payments:** Non-employee directors should not be eligible to receive any change-in-control payments or severance arrangements of any kind.
- 6.9 Retirement Arrangements**
- 6.9a Retirement Benefits:** Since non-employee directors are elected representatives of shareowners and not company employees, they should not be offered retirement benefits such as defined benefit plans or deferred stock awards nor should they be entitled to special post-retirement perquisites.
- 6.9b Deferred Compensation Plans:** The Council does not object to allowing directors to defer cash pay via a deferred compensation plan for directors. However, the Council believes that such investment alternatives offered under deferred compensation plans for directors should mirror those offered to employees in broad-based deferral plans. Non-employee directors should not receive "sweeteners" for deferring cash payments into company stock.
- 6.10 Disgorgement:** Directors should be required to repay compensation to the company in the event of malfeasance or a breach of fiduciary duty involving the director.

7. Independent Director Definition

- 7.1 Introduction**
- 7.2 Basic Definition of an Independent Director**
- 7.3 Guidelines for Assessing Director Independence**

- 7.1 Introduction:** Members of the Council of Institutional Investors believe that the promulgation of a narrowly drawn definition of an independent director (coupled with a policy specifying that at least two-thirds of board members and all members of the audit, compensation and nominating committees should meet this standard) is in the corporation's and all shareowners' ongoing financial interest because:

- Independence is critical to a properly functioning board;

- Certain clearly definable relationships pose a threat to a director's unqualified independence in a sufficient number of cases that they warrant advance identification;
- The effect of a conflict of interest on an individual director is likely to be almost impossible to detect, either by shareowners or other board members; and
- While an across-the-board application of *any* definition to a large number of people will inevitably miscategorize a few of them, this risk is sufficiently small that it is far outweighed by the significant benefits.

The members of the Council recognize that independent directors do not invariably share a single set of qualities that are not shared by non-independent directors. Consequently no clear rule can unerringly describe and distinguish independent directors. However, the independence of the director depends on all relationships the director has, including relationships between directors, that may compromise the director's objectivity and loyalty to shareowners. It is the obligation of the directors to consider all relevant facts and circumstances, to determine whether a director is to be considered independent.

The members of the Council approved the following basic definition of an independent director:

7.2 Basic Definition of an Independent Director: An independent director is someone whose only nontrivial professional, familial or financial connection to the corporation, its chairman, CEO or any other executive officer is his or her directorship. Stated most simply, an independent director is a person whose directorship constitutes his or her only connection to the corporation.

7.3 Guidelines for Assessing Director Independence: The notes that follow are supplied to give added clarity and guidance in interpreting the specified relationships. A director will not be considered independent if he or she:

7.3a Is, or in the past 5 years has been, or whose relative is, or in the past 5 years has been, employed by the corporation or employed by or a director of an affiliate;

NOTES: An "affiliate" relationship is established if one entity either alone or pursuant to an arrangement with one or more other persons, owns or has the power to vote more than 20 percent of the equity interest in another, unless some other person, either alone or pursuant to an arrangement with one or more other persons, owns or has the power to vote a greater percentage of the equity interest. For these purposes, joint venture partners and general partners meet the definition of an affiliate, and officers and employees of joint venture enterprises and general partners are considered affiliated. A subsidiary is an affiliate if it is at least 20 percent owned by the corporation.

Affiliates include predecessor companies. A "predecessor" is an entity that within the last 5 years was party to a "merger of equals" with the corporation or represented more than 50 percent of the corporation's sales or assets when such predecessor became part of the corporation.

"Relatives" include spouses, parents, children, step-children, siblings, mothers and fathers-in-law, sons and daughters-in-law, brothers and sisters-in-law,

aunts, uncles, nieces, nephews and first cousins, and anyone sharing the director's home.

- 7.3b** Is, or in the past 5 years has been, or whose relative is, or in the past 5 years has been, an employee, director or **greater-than-20-percent** owner of a firm that is one of the corporation's or its affiliate's paid advisers or consultants or that receives revenue of at least \$50,000 for being a paid adviser or consultant to an executive officer of the corporation;

NOTES: Advisers or consultants include, but are not limited to, law firms, auditors, accountants, insurance companies and commercial/investment banks. For purposes of this definition, an individual serving "of counsel" to a firm will be considered an employee of that firm.

The term "executive officer" includes the chief executive, operating, financial, legal and accounting officers of a company. This includes the president, treasurer, secretary, controller and any vice-president who is in charge of a principal business unit, division or function (such as sales, administration or finance) or performs a major policymaking function for the corporation.

- 7.3c** Is, or in the past 5 years has been, or whose relative is, or in the past 5 years has been, employed by or has had a 5 percent or greater ownership interest in a third-party that provides payments to or receives payments from the corporation **and either: (i) such payments account for 1 percent of the third-party's or 1 percent of the corporation's consolidated gross revenues in any single fiscal year; or (ii) if the third-party is a debtor or creditor of the corporation and the amount owed exceeds 1 percent of the corporation's or third party's assets.** Ownership means beneficial or record ownership, not custodial ownership;

- 7.3d** Has, or in the past 5 years has had, or whose relative has paid or received more than \$50,000 in the past 5 years under, a personal contract with the corporation, an executive officer or any affiliate of the corporation;

NOTES: Council members believe that even small personal contracts, no matter how formulated, can threaten a director's complete independence. This includes any arrangement under which the director borrows or lends money to the corporation at rates better (for the director) than those available to normal customers—even if no other services from the director are specified in connection with this relationship;

- 7.3e** Is, or in the past 5 years has been, or whose relative is, or in the past 5 years has been, an employee or director of a foundation, university or other non-profit organization that receives significant grants or endowments from the corporation, one of its affiliates or its executive officers or has been a *direct* beneficiary of *any* donations to such an organization;

NOTES: A "significant grant or endowment" is the lesser of \$100,000 or 1 percent of total annual donations received by the organization.

- 7.3f** Is, or in the past 5 years has been, or whose relative is, or in the past 5 years has been, part of an interlocking directorate in which the CEO or other employee of the corporation serves on the board of a third-party entity (for-profit or not-for-profit) employing the director **or such relative**;

- 7.3g** Has a relative who is, or in the past 5 years has been, an employee, a director or a 5 percent or greater owner of a third-party entity that is a significant competitor of the corporation; or
- 7.3h** Is a party to a voting trust, agreement or proxy giving his/her decision making power as a director to management except to the extent there is a fully disclosed and narrow voting arrangement such as those which are customary between venture capitalists and management regarding the venture capitalists' board seats.

The foregoing describes relationships between directors and the corporation. The Council also believes that it is important to discuss relationships between directors on the same board which may threaten either director's independence. A director's objectivity as to the best interests of the shareowners is of utmost importance and connections between directors outside the corporation may threaten such objectivity and promote inappropriate voting blocks. As a result, directors must evaluate all of their relationships with each other to determine whether the director is deemed independent. The board of directors shall investigate and evaluate such relationships using the care, skill, prudence and diligence that a prudent person acting in a like capacity would use.

(updated Sept. 18, 2007)

DEFINITION OF INDEPENDENT DIRECTOR

“Independent director” means a director who:

- Is not currently, or within the last five years³⁰ has not been, employed by the Company in an executive capacity.
- Has not received more than \$50,000³¹ in direct compensation from the Company during any 12-month period in the last three³² years other than:
 - i. Director and committee fees including bona fide expense reimbursements.
 - ii. Payments arising solely from investments in the company's securities.
- Is not affiliated with a company that is an adviser or consultant to the Company or a member of the Company's senior management during any 12-month period in the last three years that has received more than \$50,000 from the Company.
- Is not a current employee of a company (customer or supplier) that has made payments to, or received payments from the Company that exceed the greater of \$200,000³³ or 2%³⁴ of such other company's consolidated gross revenues.
- Is not affiliated with a not-for-profit entity (including charitable organizations) that receives contributions from the Company that exceed the greater of \$200,000 or 2% of consolidated gross revenues of the recipient for that year.
- Is not part of an interlocking directorate in which the CEO or other employee of the Company serves on the board of another company employing the director.
- Has not had any of the relationships described above with any parent or subsidiary of the Company.
- Is not a member of the immediate family³⁵ of any person described in Appendix A.

³⁰ 5-year look back periods are consistent the Council of Institutional Investors 2006 director independence standards.

³¹ \$50,000 thresholds are consistent with the Council of Institutional Investors 2006 director independence standards.

³² 3-year look back periods are consistent with the New York Stock Exchange and NASDAQ 2006 director independence standards.

³³ \$200,000 thresholds are consistent with NASDAQ 2006 director independence standards.

³⁴ 2% thresholds are consistent with New York Stock Exchange director independence standards.

³⁵ CalPERS defines immediate family consistent with the New York Stock Exchange: spouse, parents, children, siblings, mothers and fathers-in-law, sons and daughters-in-law, brothers and sisters-in-law, and anyone who shares such person's home.

INDEPENDENT CHAIR/LEAD-DIRECTOR POSITION DUTY STATEMENT

The independent chairperson is responsible for coordinating the activities of the board of directors including, but not limited to, those duties as follows:

- Coordinate the scheduling of board meetings and preparation of agenda material for board meetings and executive sessions of the board's independent or non-management directors.
- Lead board meetings in addition to executive sessions of the board's independent or non-management directors.
- Define the scope, quality, quantity and timeliness of the flow of information between company management and the board that is necessary for the board to effectively and responsibly perform their duties.
- Oversee the process of hiring, firing, evaluating, and compensating the CEO.
- Approve the retention of consultants who report directly to the board.
- Advise the independent board committee chairs in fulfilling their designated roles and responsibilities to the board.
- Interview, along with the chair of the nominating committee, all board candidates, and make recommendations to the nominating committee and the board.
- Assist the board and company officers in assuring compliance with and implementation of the company's Governance Principles.
- Act as principal liaison between the independent directors and the CEO on sensitive issues.
- Coordinate performance evaluations of the CEO, the board, and individual directors.
- Recommend to the full board the membership of the various board committees, as well as selection of the committee chairs.
- Be available for communication with shareowners.

Principles for Responsible Investment

Launched in April 2006, The Principles for Responsible Investment (PRI) provides the framework for investors to give appropriate consideration to environment, social and corporate governance (ESG) issues. The PRI was an initiative of the UN Secretary-General and coordinated by UNEP Finance Initiative and the UN Global Compact. An international working group of 20 institutional investors was supported by a 70-person multi-stakeholder group of experts from the investment industry, intergovernmental and governmental organizations, civil society and academia. CalPERS is one of the original signatories.

The Principles

- 1. We will incorporate ESG issues into investment analysis and decision-making processes.
- 2. We will be active owners and incorporate ESG issues into our ownership policies and practices.
- 3. We will seek appropriate disclosure on ESG issues by the entities in which we invest.
- 4. We will promote acceptance and implementation of the Principles within the investment industry.
- 5. We will work together to enhance our effectiveness in implementing the Principles.
- 6. We will each report on our activities and progress towards implementing the Principles.

In signing the Principles, we as investors publicly commit to adopt and implement them, where consistent with our fiduciary responsibilities. We also commit to evaluate the effectiveness and improve the content of the Principles over time. We believe this will improve our ability to meet commitments to beneficiaries as well as better align our investment activities with the broader interests of society.

We encourage other investors to adopt the Principles.

Additional information can be found at www.unpri.org.

The Global Sullivan Principles The Preamble

The Objectives of the Global Sullivan Principles are to support economic, social and political justice by companies where they do business, to support human rights and to encourage equal opportunity at all levels of employment, including racial and gender diversity on decision making committees and Boards; to train and advance disadvantaged workers for technical, supervisory and management opportunities; and to assist with greater tolerance and understanding among peoples, thereby, helping to improve the quality of life for communities, workers and children with dignity and equality.

I urge companies large and small in every part of the world to support and follow the Global Sullivan Principles of corporate social responsibility wherever they have operations.

The Reverend Leon H. Sullivan

The Principles

As a company which endorses the Global Sullivan Principles we will respect the law, and as a responsible member of society we will apply these Principles with integrity consistent with the legitimate role of business. We will develop and implement company policies, procedures, training and internal reporting structures to ensure commitment to these principles throughout our organization. We believe the application of these Principles will achieve greater tolerance and better understanding among peoples, and advance the culture of peace.

Accordingly, we will:

- | 8• Express our support for universal human rights and, particularly, those of our employees, the communities within which we operate, and parties with whom we do business.
- | 9• Promote equal opportunity for our employees at all levels of the company with respect to issues such as color, race, gender, age, ethnicity or religious beliefs, and operate without unacceptable worker treatment such as the exploitation of children, physical punishment, female abuse, involuntary servitude, or other forms of abuse.
- | 10• Respect our employees' voluntary freedom of association.
- | 11• Compensate our employees to enable them to meet at least their basic needs and provide the opportunity to improve their skill and capability in order to raise their social and economic opportunities.
- | 12• Provide a safe and healthy workplace; protect human health and the environment; and promote sustainable development.
- | 13• Promote fair competition including respect for intellectual and other property rights, and not offer, pay or accept bribes.
- | 14• Work with governments and communities in which we do business to improve the quality of life in those communities – their educational, cultural, economic and social well-being – and seek to provide training and opportunities for workers from disadvantaged backgrounds.
- | 15• Promote the application of these principles by those with whom we do business.

We will be transparent in our implementation of these principles and provide information which demonstrates, publicly, our commitment to them.

Global Framework for Climate Risk Disclosure

While each sector and company may differ in its approach to disclosure, the most successful corporate climate risk disclosure will be transparent and make clear the key assumptions and methods used to develop it. Companies should directly engage investors and securities analysts in disclosing climate risk through both written documents and discussions.

Investors expect climate risk disclosure to allow them to analyze a company's risks and opportunities and strongly encourage that the disclosure include the following elements:

21. Emissions – As an important first step in addressing climate risk, companies should disclose their total greenhouse gas emissions. Investors can use this emissions data to help approximate the risk companies may face from future climate change regulations.

Specifically, investors strongly encourage companies to disclose:

2.12• Actual historical direct and indirect emissions since 1990;

2.13• Current direct and indirect emissions; and

2.14• Estimated future direct and indirect emissions of greenhouse gases from their operations, purchased electricity, and products/services.³⁶

Investors strongly encourage companies to report absolute emissions using the most widely agreed upon international accounting standard – Corporate Accounting and Reporting Standard (revised edition) of the Greenhouse Gas Protocol, developed by the World Business Council for Sustainable Development and the World Resources Institute.³⁷ If companies use a different accounting standard, they should specify the standard and the rationale for using it.

32. Strategic Analysis of Climate Risk and Emissions Management – Investors are looking for analysis that identifies companies' future challenges and opportunities associated with climate change. Investors therefore seek management's strategic analysis of climate risk, including a clear and straightforward statement about implications for competitiveness. Where relevant, the following issues should also be addressed: access to resources, the timeframe that applies to the risk and the firm's plan for meeting any strategic challenges posed by climate risk.

Specifically, investors urge companies to disclose a strategic analysis that includes:

4.7• Climate Change Statement – A statement of the company's current position on climate change, its responsibility to address climate change, and its engagement with governments and advocacy organizations to affect climate change policy.

4.8• Emissions Management – Explanation of all significant actions the company is taking to minimize its climate risk and to identify opportunities. Specifically, this should include the actions the company is taking to reduce, offset, or limit greenhouse gas emissions. Actions could include establishment of emissions reduction targets, participation in emissions trading schemes, investment in clean energy

³⁶ These emissions disclosures correspond with the three "scopes" identified in the Greenhouse Gas Protocol Corporate Accounting and Reporting Standard (revised edition) developed by the World Business Council for Sustainable Development and the World Resources Institute. Scope 1 includes a company's direct greenhouse gas emissions; Scope 2 includes emissions associated with the generation of electricity, heating/cooling, or steam purchased for a company's own consumption; and Scope 3 includes indirect emissions not covered by Scope 2. More information is available at <http://www.ghgprotocol.org>

³⁷ Available at <http://www.ghgprotocol.org>

technologies, and development and design of new products. Descriptions of greenhouse gas reduction activities and mitigation projects should include estimated emission reductions and timelines.

4.9. Corporate Governance of Climate Change – A description of the company's corporate governance actions, including whether the Board has been engaged on climate change and the executives in charge of addressing climate risk. In addition, companies should disclose whether executive compensation is tied to meeting corporate climate objectives, and if so, a description of how they are linked.

43. Assessment of Physical Risks of Climate Change – Climate change is beginning to cause an array of physical effects, many of which can have significant implications for companies and their investors. To help investors analyze these risks, investors encourage companies to analyze and disclose material, physical effects that climate change may have on the company's business and its operations, including their supply chain.

Specifically, investors urge companies to begin by disclosing how climate and weather generally affect their business and its operations, including their supply chain. These effects may include the impact of changed weather patterns, such as increased number and intensity of storms; sea-level rise; water availability and other hydrological effects; changes in temperature; and impacts of health effects, such as heat-related illness or disease, on their workforce. After identifying these risk exposures, companies should describe how they could adapt to the physical risks of climate change and estimate the potential costs of adaptation.

54. Analysis of Regulatory Risks – As governments begin to address climate change by adopting new regulations that limit greenhouse gas emissions, companies with direct or indirect emissions may face regulatory risks that could have significant implications. Investors seek to understand these risks and to assess the potential financial impacts of climate change regulations on the company.

Specifically, investors strongly urge companies to disclose:

7.4. Any known trends, events, demands, commitments, and uncertainties stemming from climate change that are reasonably likely to have a material effect on financial condition or operating performance. This analysis should include consideration of secondary effects of regulation such as increased energy and transportation costs. The analysis should incorporate the possibility that consumer demand may shift sharply due to changes in domestic and international energy markets.

7.5. A list of all greenhouse gas regulations that have been imposed in the countries in which the company operates and an assessment of the potential financial impact of those rules.

7.6. The company's expectations concerning the future cost of carbon resulting from emissions reductions of five, ten, and twenty percent below 2000 levels by 2015. Alternatively, companies could analyze and quantify the effect on the firm and shareowner value of a limited number of plausible greenhouse gas regulatory scenarios. These scenarios should include plausible greenhouse gas regulations that are under discussion by governments in countries where they operate. Companies should use the approach that provides the most meaningful disclosure, while also applying, where possible, a common analytic framework in order to facilitate comparative analyses across companies. Companies should clearly state the methods and assumptions used in their analyses for either alternative.

Ceres 14-Point Climate Change Governance Checklist**Board Oversight**

1. Board is actively engaged in climate change policy and has assigned oversight responsibility to board member, board committee or full board.

Management Execution

2. Chairman/CEO assumes leadership role in articulating and executing climate change policy.
3. Top executives and/or executive committees assigned to manage climate change response strategies.
4. Climate change initiatives are integrated into risk management and mainstream business activities.
5. Executive officers' compensation is linked to attainment of environmental goals and GHG targets.

Public Disclosure

6. Securities filings disclose material risks and opportunities posed by climate change.
7. Public communications offer comprehensive, transparent presentation of response measures.

Emissions Accounting

8. Company calculates and registers GHG emissions savings and offsets from operations.
9. Company conducts annual inventory of GHG emissions and publicly reports results.
10. Company has an emissions baseline by which to gauge future GHG emissions trends.
11. Company has third-party verification process for GHG emissions data.

Strategic Planning

12. Company sets absolute GHG emission reduction targets for facilities, energy use, business travel and other operations (including direct emissions.)
13. Company participates in GHG emissions trading programs – up to 30.
14. Company pursues business strategies to reduce GHG emissions, minimize exposure to regulatory and physical risks, and maximize opportunities from changing market forces and emerging controls.

Executive Summary

Institutional investors have both a fiduciary responsibility and an economic interest in ensuring that executive remuneration or compensation is well aligned with their interests. The ICGN maintains current and relevant guidelines regarding the process of awarding remuneration and key plan design features to help communicate investors' perspectives on this critical issue. These guidelines update existing ICGN policy and provide further detail in line with recent events³⁸.

Three principles underpin these updated guidelines: *transparency*, so investors can clearly understand the program and see total pay; *accountability*, to ensure boards maintain the proper alignment in representing owners in part by obtaining shareowner approval of a remuneration report; and *performance-based*, so the programs are linked to relevant measures of company performance over an appropriate timescale. This should also reflect due regard for the reputational aspects of remuneration.

The ICGN believes boards and their mechanisms for deciding upon executive pay play a critical role in representing owners in the process of remuneration design and oversight. It is therefore critical that they adhere to best practices in regard to their process, and that they ensure the relevance, independence, and pertinence of all supporting advisors and material used in setting remuneration programs.

The board is responsible for providing full and complete disclosure of the company's program, with particular emphasis on providing the rationale behind the plan design and how the components of the plan are integrated into an overall remuneration philosophy. The ICGN believes companies should provide a full explanation of the relationship of the plan to performance measures, and should include specific performance targets or hurdles. Boards will adopt different decision making processes for agreeing executive remuneration, be this through remuneration committees, the supervisory board, or sub-groups. The key point is that the mechanism is fully accountable to the governing body and its operation is, and is seen to be, independent and fair.

The ICGN believes plan design should carefully consider the major elements of compensation (cash and short-term incentives, equity and long-term incentives, and post-employment and other benefits), and carefully construct the program to fit the individual circumstances of each company. Accordingly, the ICGN believes the influence of benchmarking or peer relative analysis in establishing compensation levels should be kept to a minimum. The ICGN believes employment contracts, severance, and change in control agreements should be strictly limited, and any use of these tools should be justified within the context of the remuneration philosophy and overall plan design.

Remuneration has an important role in a company's ability to recruit and retain the executive talent it needs to ensure success. It also has the potential to damage reputation, affect employee morale and affect behavior. Getting the balance on time scale and appropriate performance measures is critical. These updated guidelines on remuneration are intended to provide a global benchmark to help shareholders and boards achieve this balance.

Introduction and Purpose

The traditional view of executive remuneration or compensation is to attract and retain qualified personnel. While true in simple terms, this definition fails to consider the significance of compensation programs in the overall governance of organizations. For long-term investors, a much broader view of remuneration is required that encompasses proper alignment, incentives to pursue optimal capital allocation and good corporate governance.

Investors have taken an increased interest and more active role in remuneration in recent years for several reasons. First and foremost, institutional investors have a fiduciary responsibility to act in the best interest of their beneficiaries, and executive remuneration is an important cornerstone.

Secondly, because remuneration programs have such a significant impact on the alignment and incentives of management, they are inexorably linked to the long-term viability of the company. Well designed remuneration programs have a demonstrable positive impact on the long-term performance of the company. Conversely, poorly designed or poorly executed compensation plans can have a serious negative impact on shareowner value. In this regard, the opportunity for a significant principal/agent problem arises. Thus, investors have a clear economic

³⁸ The Caucus Race: Executive Remuneration, 2002.

interest in addition to a fiduciary interest in the design and implementation of remuneration plans. The combination of these drivers give owners, particularly long-term owners, a role in setting broad policies and guidelines related to executive remuneration and in overseeing the practices of companies in this area through such means as proxy voting and direct engagement.

These guidelines are primarily addressed to companies and their non-executive or supervisory board members, and set out key remuneration principles which should be applied by companies regardless of their domicile. They cannot address every issue related to remuneration. Rather, they reflect the overall policy and philosophical approach to remuneration that leading institutional investors and their associations expect from companies. In this regard, the guidelines set out general principles that reflect best international practice. They should be applied pragmatically, taking into account the specific circumstances of each company and the economic and legal environment in which it operates.

The ICGN believes that best practice in remuneration begins with the formation of an independent and effective process for deciding upon executive remuneration. In many jurisdiction companies have established remuneration committees, comprising independent non-executive or supervisory board members, who can take responsibility for proposing remuneration for approval by the whole board. The purpose of such a committee is to ensure independence and focus in the process. The overall concepts in these guidelines apply regardless of the particular mechanism which is chosen. The important point is that the company establish a formal, independent process for setting remuneration, which is wholly transparent and accountable to shareowners. Any such remuneration committee is considered complementary to the board, and does not remove ultimate responsibility for the full board regarding proper remuneration. For convenience, we term this decision making body a 'remuneration committee', although terms may differ across markets.

The ICGN's guidelines are intended to serve as a communication tool from investors to companies in any domicile and any industry. The ICGN believes remuneration programs should be carefully designed and implemented with the unique situation of each company in mind. However, we believe certain broad principles and guidelines are universal. Within this framework, we recognize the need for flexibility to tailor remuneration programs to meet the challenges and opportunities that each company faces. With this flexibility, it is incumbent upon the company to properly structure a remuneration committee, develop and implement processes for setting remuneration programs, and provide full disclosure of remuneration programs, including all aspects ranging from the philosophy to details of individual executive pay elements.

1.0 Role of the Remuneration Committee

- 1.1 The remuneration committee is responsible for all aspects of the remuneration program. The committee should take ownership of devising, drafting and implementing the remuneration program.
- 1.2 The committee should be sufficiently independent in its makeup and process to completely fulfill its role in administering a remuneration program in the best long-term interests of shareowners. Ideally, the committee should comprise entirely independent non-executive directors or supervisory board members. However, depending on best practice in the relevant market, a clear majority of its members should be independent. Special care should be taken to ensure that the committee as a whole has adequate experience and background as well as diverse perspectives. The committee should consist of at least three members. The ICGN is aware that current CEOs of other companies may have a potential conflict or bias in setting their peers' remuneration, yet can also have valuable insights into remuneration issues. The ICGN believes committees should carefully consider the role of other CEOs in the remuneration setting process and should limit the number of CEOs on the committee to ensure independent thinking prevails.
- 1.3 The committee should have available the necessary resources to fulfill its duties and obligations. This includes controlling all aspects of the engagement of specialist remuneration consultants, including their selection, engagement, and release. Special care should be taken to avoid conflicts of interest that would impair the independence of the consultants. For example, the committee's consultant would not be considered independent if they are also currently engaged by the company's management.
- 1.4 The committee has the responsibility to integrate all components of remuneration into a cohesive program that supports and is tied to the objectives of the company, which may be both short-term and

long-term in nature. Performance measures should include appropriate financial targets, but non-financial targets may also be highly relevant to long term sustainable commercial success.

- 1.5 In establishing the remuneration program and evaluating appropriate forms as well as levels of remuneration, the committee should take into account all relevant information. This may include the use of peer relative analysis and benchmarking to peer and market examples. However, care should be taken not to over emphasize the influence of peer group benchmarking on the ultimate design of the program. Peer group averages alone are not adequate justification for the design of a remuneration program or the levels of pay. Rather, each company's remuneration program should be carefully designed to fit its unique situation.
- 1.6 It is the committee's responsibility to maintain appropriate communication with shareholders, either directly or via the board. This includes a responsibility to provide full disclosure regarding the remuneration program, as well as maintain a dialogue and seek input from shareowners as appropriate.

2.0 Remuneration Plan Design

- 2.1 The ICGN believes remuneration plans should be structured with an appropriate balance of short-term and long-term incentives. This ratio may vary based on market conditions and the specific circumstances of the company. It is incumbent upon the committee to carefully evaluate all relevant information in establishing the desired mix of short-term and long-term remuneration elements, and update this evaluation over time to ensure that the plan evolves to meet the company's changing situation.
- 2.2 The ICGN believes remuneration plans should be strongly linked to the company's performance that reflects and is consistent with value to long-term shareowners. It is acceptable to provide incentives to achieve both long-term and short-term goals; however, the performance drivers should not be duplicative, and a balance needs to be struck with the need to reward success over the long-term.
- 2.3 The remuneration committee should establish goals for total remuneration, as well as each major sub component of the plan. This should be done in the context of a total compensation analysis, and committees may use tools such as tally sheets to gain a complete perspective of the remuneration program. This will help the committee evaluate the overall mix of remuneration and determine how to integrate the elements. Remuneration levels may take into account relevant benchmarks and market conditions, but these criteria should not be used exclusively to justify levels of remuneration or plan design. Too much reliance on peer relative analysis leads to unjustified escalation in executive pay that gives rise to concern. Each plan should be tailored to the unique circumstances of the company as well as the responsibilities of the position(s) in question and the experience and expertise of the individual.
- 2.4 Compensation plans generally consist of four primary categories: cash and short-term incentives; equity and long-term incentives; retirement and post employment benefits and "other" compensation, such as perquisites.

2.4.1 *Cash and Short-Term Incentives.*

The cash component and short-term incentives should generally be tied to annual performance measures. Objectives should be set and recorded at the beginning of the performance period. Companies should disclose the circumstances in which short-term performance measures may be adjusted, including the process and timing of disclosure of these actions. The ICGN believes short-term performance measures should not be adjusted after a brief period of the performance horizon has past, such as the first quarter for example, regardless of the circumstances. Companies should avoid performance periods shorter than 1 year (such as quarterly bonus programs).

2.4.2 *Equity and Long-Term Incentive Tools.*

The equity and long-term incentive component should consist of an appropriate mix of equity and equity like tools, which may include options, restricted shares, stock appreciation rights, and other equity-like incentive structures for example. The ICGN believes companies should provide clear justification for the types of equity tools employed and the relative mix of these tools.

Companies should provide a clear plan (contained within the remuneration report or other disclosures) that details how these tools will be used including the target dilution levels, cumulative dilution to date, and projected run rates over a multi-year period and actual run rates over previous years. This justification should include the methodology by which companies will determine the appropriate dilution and run rate, and evaluate the effectiveness of the plan over time, including its impact on long-term value creation. The equity plan should also include a maximum annual limit on individual participation and the planned distribution of equity tools (In other words, distribution between the executive ranks and employee base including the rough percentage of the overall plan that will go to each group).

Any potential dilution of shareowners should require prior approval through votes to protect pre-emption rights.

The ICGN believes equity ownership guidelines and holding requirements should be an integral component of company's equity plan and overall compensation philosophy. Equity ownership guidelines are generally expressed as a multiple of salary and bonus opportunity, and serve to align the interests of the management team with the long-term owners. Accordingly, the guidelines should require significant ownership levels over an appropriate period of time. Holding requirements generally require that executives shall hold significant portions of equity grants for extended periods, which should include requirements to hold some portion of grants for a fixed period of time after separation (such as retirement or other event in which employment is ceased).

The ICGN believes the following equity plan characteristics are inappropriate: discount options; re-load provisions; gross-up provisions; accelerated vesting upon change in control; and, repricing without shareholder approval. Companies should also provide clear guidance regarding the circumstances under which key plan criteria may be amended, including performance targets, and including notification to shareowners (disclosure).

Equity (and equity-like) remuneration should have vesting terms that are clearly consistent with the company's capital allocation and investment horizon. The ICGN believes that, as a general rule, vesting of long-term incentives should be a minimum of three years.

The ICGN is opposed to share repurchase plans that are strictly designed to offset equity plan dilution. Share repurchase plans should be an integral component of the company's capital allocation decision, not its remuneration program. Share repurchase plans designed to offset equity plan dilution may lead to poor capital allocation decisions or poor timing of repurchase activity.

Equity grants should be scheduled at regular annual intervals. Companies should adopt and disclose a formal pricing methodology for establishing the strike price of grants where applicable. For example, this may entail a policy of establishing the strike price at the average closing price of the company's common shares over the previous 2 to 4 week period. In no circumstances should boards or management be allowed to back date grants to achieve a more favorable strike price (in the case of options).

2.4.3 Performance-Based Methodologies.

The ICGN strongly supports the use of performance measures tied to the vesting of equity and equity-like instruments. This may include indexing or premium pricing methodologies³⁹ and other performance criteria such as key operational metrics. The ICGN does not support time accelerated vesting⁴⁰ as a legitimate or desirable performance vesting methodology.

³⁹ Indexing and premium pricing methodologies are forms of performance-based vesting. Indexed stock options have a strike price set relative to a peer group index such that the strike price is adjusted to reflect the performance of the index. Premium priced options have a strike price set at a premium to the current market at the time they are granted.

⁴⁰ Time accelerate vesting is a methodology that accelerates the vesting of an equity award based upon meeting some pre-determined criteria or performance hurdle. Under time accelerated vesting, the equity awards will vest eventually vest even if the performance criteria for acceleration are not met, the performance criteria is tied only to the acceleration of vesting.

Performance targets associated with equity components should be consistent with long-term sustained superior performance. This means that performance goals should be constructed to measure sustained performance over long periods (including multiple accounting periods). Care should be taken to mitigate potential unintended negative incentives that may be associated with performance measures. For example, poorly constructed performance programs could provide an opportunity to manipulate short-term accounting measures to meet performance goals.

The ICGN believes plans should be designed to minimize or eliminate potential adverse incentives in the following ways (at a minimum): a) Utilize multiple performance metrics with some offsetting drivers that would mitigate the ability to manipulate accounting measures or drive poor business decisions to reach goals (for example, if revenue growth is a desired performance target, it should be accompanied by a profitability or margin measure to ensure that the “incentive” is not to increase revenue at any cost); b) Utilize performance methodologies that encompass multiple periods, such that no opportunity to manipulate one accounting period over another exists (channel stuffing or expense shifting for example); c) Utilize varied performance metrics over time (perhaps with each year’s grant) in an effort to evolve the program with the company’s situation and provide diversified performance drivers; and d) companies should adopt a “clawback” policy that provides for the recapture of performance related pay in cases of restatement or fraudulent reporting if either resulted in an award of performance-based remuneration.

In change in control or other corporate events the ICGN believes only pro-rata performance criteria that reflect a real measure of underlying achievement should be awarded. The ICGN is opposed to a blanket acceleration of equity instruments based on corporate events. The remaining equity instruments and performance awards should be tied to the long-term success of the new entity, not the execution of the transaction.

The ICGN does not favor “retesting” or granting of additional time to meet performance goals except in very exceptional circumstances. The company should have a clearly articulated policy on how these considerations will be made and how the company will disclose any material changes to terms of the remuneration plan.

2.4.4 *Post Employment and Other Benefits*

Post employment and other benefits include retirement arrangements (both defined benefit and defined contribution plans), health care, and other benefits such as perquisites (both during and after employment). Should companies utilize any of these forms of remuneration, care should be taken to integrate these structures within the overall philosophy and structure of the total plan. Post employment and other benefits can entail significant liability for the company and may represent significant portions of the total value of the remuneration program. As such, the alignment and incentive characteristics of these elements of the remuneration plan can have a material impact on its overall effectiveness. As a general rule, the ICGN believes post employment benefits and perquisites may significantly detract from the performance and alignment qualities of remuneration plans, while arguably having some value to attract and retain key employees. These competing interests must be balanced strictly in the best long-term interests of the shareholders.

As noted under Section 2.1 and 2.2, the company should disclose all material aspects of the remuneration plan, which includes post employment and other benefits. The ICGN believes companies should disclose the existence of all retirement programs for executives, clearly noting any supplemental benefits or sweeteners provided (such as above market earnings on account balances or additional years of service credit for example). Disclosures related to defined benefit programs should include an estimate of the actuarial present value accrued during the applicable year, and an estimate of the expected benefit at normal retirement age. These disclosures should be specific to each individual executive covered in the disclosures.

If any portion of post employment benefits (retirement, health, perquisites) is unfunded, the company should provide adequate detail as to the potential liability to the company under these programs.

3.0 Employment Contracts, Severance, and Change in Control Agreements

- 3.1 The ICGN believes contracts, employment agreements, severance, and change in control arrangements should be strictly limited. As a rule, these arrangements should not adversely affect the executive's alignment of interest with shareowners or their incentive to pursue superior long-term value.
- 3.2 Employment contracts should not extend longer than 1 to 3 year periods, and should not be opened or renewed on an "automatic" basis. Contracts that run for a multi-year period for the purpose of recruitment should revert to a 1 year contract after the initial contract period. Within this, boards should pursue a policy of mitigation to minimize post-employment expenses to executives.
- 3.3 Employment arrangements should not provide guaranteed raises, bonuses, or other incentives such as equity grants. Such provisions have a negative impact on the alignment and incentive characteristics of the remuneration program.
- 3.4 Severance payments should be limited to situations of wrongful termination, death, or disability.
- 3.5 The ICGN believes companies should not utilize change in control agreements or make special arrangements in the event of an equivalent corporate event. Change in control agreements can have a significant detrimental impact on the alignment and incentives of the management team. These arrangements typically tie significant remuneration to the transaction in the form of cash payouts, accelerated vesting of equity, and other benefits that are not well aligned with the long-term interests of the owners or with the success of the new entity.
- 3.6 Companies should not compensate executives for any excise or additional taxes payable as a result of any employment, severance, or other agreement.
- 3.7 Companies should provide full disclosure of the existence of all employment agreements, severance arrangements, change in control agreements, or any other contractual agreements with key executives. Disclosure should include a description of the agreements with sufficient detail of all material factors such that shareowners have a complete understanding of their terms. Companies should provide estimated payments under specific scenarios such that shareowners can determine the potential payouts under each agreement.

4.0 Disclosure

- 4.1 The committee is responsible for providing full disclosure to shareowners and the market of all aspects of the committee's structure, decision making process, and the remuneration program.
- 4.2 The committee should provide disclosure on at least an annual basis that provides a detailed explanation of the remuneration program. This report should include the company's rationale for the program, including the company's overall remuneration philosophy and how the program is designed to support the company's business objectives. The report should also provide detailed disclosures of the remuneration of each key executive.

Each component of the remuneration program should be identified and its role in the overall compensation program should be justified and explained. This disclosure should include the relative mix of compensation (cash, equity, retirement benefits, perquisites, and other forms of reward) as well as an explanation of how each fits into the performance objectives of the plan. The disclosures should also provide detail on any tax related payments, and favorable treatment provided to executives (such as low rate loans, forgivable loans, or preferential earnings rates).

The report should be detailed enough to allow shareholders to evaluate the minimum and maximum value of remuneration packages in total under different performance scenarios. This should include disclosure of the potential maximum and expected value of performance related remuneration components, and an explanation of the methodology for estimating the expected value.

If the company utilizes any form of employment agreements, change in control agreements, or other contractual arrangements, these should be fully disclosed. The disclosures should include the key terms of these arrangements and the rationale for their use. Care should be taken to articulate how these arrangements are in the best interest of the owners and tied to the long-term performance of the company, if at all.

- 4.3 Special care should be taken in the remuneration report to provide a full explanation of the relationship of the plan to performance measures. It is the committee's responsibility to integrate all the components of the plan and ensure that the plan as a whole is sufficiently tied to long-term sustained superior performance. The remuneration report should include evidence of the committee's actions in this regard. Any benchmarks or other hurdles contained in the plan or utilized to establish plan design should be disclosed. As a general rule, the ICGN believes companies should disclose performance targets and hurdles at the time they are established, such as when annual cash incentive plans are implemented or when equity grants are made.
- 4.4 In cases where disclosure of performance hurdles at grant date would divulge commercially competitive information, the company should provide full disclosure of the targets upon measurement or realization of the performance period instead of at grant date.
- 4.5 The company should obtain shareowner approval of the remuneration report, a remuneration policy, or similar comprehensive disclosure as may be appropriate in the applicable jurisdiction. The purpose of obtaining shareholder approval is to provide owners with an opportunity to formally express their opinion regarding the performance of the company in regards to designing and implementing a remuneration program that is in shareowners' interests. In some cases, approval of a remuneration report is required by regulation or advised by market codes of best practice.
- 4.6 Disclosures should be presented in a single location and in a clear and understandable format. To the degree possible, tabular disclosures supported by narrative descriptions should be used to organize information.
- 4.7 The committee or if appropriate in the relevant market, the board, should seek and maintain a constructive dialogue with shareholders and should seek input regarding key elements of remuneration philosophy or plan design.

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